

AFFIDAVIT OF CHRISTIAN EUBANKS

STATE OF TEXAS }
 }
COUNTY OF HARRIS }

Before me, the undersigned notary, on this day personally appeared **Christian Eubanks**, a person whose identity is known to me. After I administered an oath to him, upon oath he said:

“My name is **Christian Eubanks**, I am over the age of eighteen years, of sound mind, and capable of making this affidavit. This affidavit is made on my personal knowledge and the statements herein are true and correct.

I am employed by the Texas Commission on Environmental Quality (“TCEQ”). I am an environmental investigator for the Water Section in TCEQ’s Houston Region 12 Office. My job responsibilities include conducting on-site investigations of facilities that may or do discharge waste into waters in the state. In this capacity, I have the authority to make this affidavit. Furthermore, in this capacity, I am familiar with Triple P.G.’s sand mining facility located at 1025 Hueni Road in Porter, Texas (the “Facility”). Moreover, I am familiar with the technical requirements of TCEQ rules for facilities that discharge wastes into the waters in the state as they apply to the Facility.

The Facility is registered with TCEQ as an active Aggregate Production Operation, and it is engaged in operating sand and gravel pits as well as dredges, and in washing, screening, or otherwise preparing sand and gravel for use in construction and other industries. Triple P.G.’s sand mining operations produce “process wastewater” that is laden with sediment and is a product of Triple P.G.’s industrial activities at the Facility. This process wastewater is stored in ponds at the Facility. TCEQ has not permitted or otherwise authorized Triple P.G. to discharge this process wastewater into any waters in the state.

The Facility is adjacent to White Oak Creek and to Caney Creek.

In May 2019, TCEQ personnel investigated the Facility and observed berm breaches around the Facility’s dredge pond. On or about May 13, 2019, a berm breached at the southwestern edge of the Facility under heavy rain, causing water from White Oak Creek to enter the Facility’s large dredge pond from the outside. The breach was approximately 100 feet in length and 30 feet in width. A second breach occurred on the eastern edge of the Facility, causing water to flow from the dredge pond to Caney Creek. The breach was approximately 75 feet in length and 30 feet in width.

As a result of the two berm breaches, from May 13, 2019, until May 29, 2019, for a total of 17 days, water entered the Facility’s dredge pond on the west side (from White Oak Creek) and exited on the east side (into Caney Creek). Facility personnel trucked in clay filler, filling in the breaches and packing them with clay. The berm breaches occurred on May 13 and remained breached until May 29, a total of 17 days.

Between September 20 and 23, 2019, another berm breach occurred at the southwestern edge of the Facility that borders White Oak Creek. The breach was approximately 150 feet in length and 30 feet in width. As a result, water from White Oak Creek came into the Facility's large dredge pond from the outside. A second breach occurred at the southeastern edge of the Facility, along Caney Creek. This second breach was approximately 100 feet in length and 30 feet in width. As a result, commingled water flowed from inside the dredge pond out into Caney Creek. In addition, at the southeastern edge of the Facility, there was an area along the southeastern berm where water had overtopped the berm and flowed off-site, causing water from the dredge pond to flow southeast over the berms and off-site towards Caney Creek.

As a result of the two September berm breaches, the dredge pond was breached on two sides of the Facility, with White Oak Creek coming into the Facility from the west through an approximate 150-foot berm breach, commingling with the contents of the dredge pond, and then exiting on the east edge of the Facility into Caney Creek, including through an approximate 100-foot breach of the southeastern berm.

As of October 9, 2019, berms around a large dredge pond at the Facility remain breached. Water from White Oak Creek, on the west of the Facility, enters the dredge pond through a berm breach approximately 150 feet long. Water is currently flowing into the dredge pond, commingling with the water and sediment therein, and then flowing out into Caney Creek, on the east of the Facility, through a berm breach approximately 100 feet long.



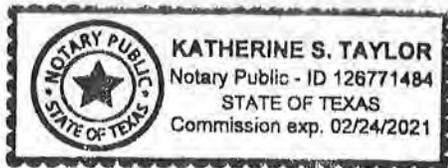
Christian Eubanks
Environmental Investigator
Texas Commission on Environmental Quality

SUBSCRIBED AND SWORN TO BEFORE ME on October 11, 2019, to certify which witness my hand and official seal.

(Seal)



Notary Public in and for the State of Texas
My commission expires: 02/24/2021



Notary Without Bond