

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FORZA OPERATING, LLC

AI # 17152

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

* Settlement Tracking No.
* SA-MM-18-0021
*
* Enforcement Tracking No.
* MM-PP-12-01064
* WE-PP-16-00020
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SETTLEMENT

The following Settlement is hereby agreed to between Forza Operating, 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 facility located in Lafourche Parish, Louisiana (“the Facility”).

II

On June 8, 2015, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. MM-PP-12-01064 (Exhibit 1).

On October 20, 2016, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. WE-PP-16-00020 (Exhibit 2).

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 THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00), of which Three Hundred Twenty-Six and 19/100 Dollars (\$326.19) 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 permit record(s), the Notices 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 Lafourche 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.

FORZA OPERATING, LLC

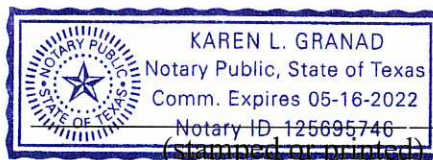
BY: [Signature]
(Signature)

GARY LEE JR.
(Printed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 13th day of August, 20 18, at SPRING, TEXAS.

[Signature]
NOTARY PUBLIC (ID # _____)



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 29th day of Oct, 20 18, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

June 8, 2015

CERTIFIED MAIL (7004 2510 0006 3852 7079)
RETURN RECEIPT REQUESTED

FORZA OPERATING, LLC
c/o C T Corporation System
Agent for Service of Process
5615 Corporate Blvd., Suite 400B
Baton Rouge, LA 70808

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-PP-12-01064
AGENCY INTEREST NO. 17152**

Dear Sir:

On or about March 5, 2015, a file review of **SE PRODUCTION LAKE RACCOURCI PSS #1 FACILITY** (the facility), owned and/or operated by **FORZA OPERATING, LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air and Water Quality Regulations. The facility is located 11.25 miles Southwest of Golden Meadow in Lafourche Parish, Louisiana. The facility operated under a SOGA Air Permit until January 31, 2013, when the permit was converted to MSOG Air Permit No. 1560-00047-08, under which the facility currently operates. The facility currently operates under LPDES permit LAG33A722.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the file review:

- A. The Respondent submitted a Name/Ownership/Operator Change Form (NOC-1 Form) to the Department on July 9, 2012. The form stated that the Respondent acquired the facility on December 2, 2011, approximately 220 days prior to submittal of the form. The failure to submit the NOC-1 and associated documentation within forty-five (45) days after a change of operator/ownership is a violation of LAC 33:I.1907.B, LAC 33:III.517.G, and La. R.S. 30:2057(A)(2).
- B. The Respondent operated the facility without an authorized Air Permit from December 2, 2011 until Air Permit No. 1560-00047-07 was transferred on August 2, 2012. The unauthorized operation of the facility between



Notice of Potential Penalty
Forza Operating, LLC
Page 2

December 2, 2011 and August 2, 2012 is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- C. The Respondent operated without an LPDES water discharge permit from December 2, 2011, the date the facility was purchased through August 2, 2012, the date of permit transfer. The unauthorized discharge of wastewater from December 2, 2011 through August 2, 2012, constitutes a violation of La. R.S. 30:2075.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

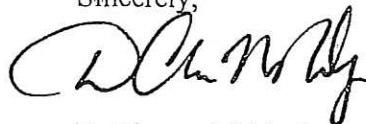
Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Bridget Rogers at (225) 219-3748 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



D. Chance McNeely
Assistant Secretary
Office of Environmental Compliance

DCM/BDR/mes
Alt ID No. 1560-00047, LAG33A722

Notice of Potential Penalty
Forza Operating, LLC
Page 3

c: Forza Operating, LLC
Attn: Gary Lee, Jr.
16801 Greenpoint Park Dr., Suite 140
Houston, TX 77060



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

October 20, 2016

CERTIFIED MAIL (7004 2510 0005 5753 0105)
RETURN RECEIPT REQUESTED

FORZA OPERATING, LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-PP-16-00020
AGENCY INTEREST NO. 17152**

Dear Sir:

On or about July 15, 2016, the Louisiana Department of Environmental Quality (the Department) reviewed records relating to your facility, **FORZA OPERATING, LLC**, an oil and gas exploration and production company, owned and/or operated by **FORZA OPERATING, LLC (RESPONDENT)**, to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations. The facility is located 11.25 miles Southwest of Golden Meadow in Lafourche Parish, Louisiana. LPDES permit LAG33A722 was transferred from XPLOR Energy Operating Company to Forza Operating, LLC effective August 2, 2012.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation(s) were noted during the course of the inspection:

A file review conducted by the Department on or about July 15, 2016, revealed the Respondent failed to submit certain reports as required by LPDES permit LAG33A722. Specifically, the Respondent failed to submit Discharge Monitoring Reports (DMRs) monthly for Outfalls 001, 002, 003, 005, 006, and 007 and quarterly for Outfalls 04A and 04B since the transfer of the permit on August 2, 2012, until present. Failure to submit DMRs as required is in violation of LPDES permit LAG33A722 (Part I, Section B. Effluent Limitations, and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.



Notice of Potential Penalty
Forza Operating, LLC
Page 2

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Melissa Sherman at 225-219-3770 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/MES/mes
Alt ID No. LAG33A722

c: Forza Operating, LLC
24900 Pitkin Road Suite 200
Spring, TX 77386

SETTLEMENT AGREEMENTS

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

	NATURE AND GRAVITY OF THE VIOLATION			
	MAJOR	MODERATE	MINOR	
DEGREE OF RISK/IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times [\text{Penalty Event Maximum} - \text{Penalty Event Minimum}])$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement. Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

- Settlement Offers searchable in EDMS using the following filters
Media: Air Quality, Function: Enforcement; Description: Settlement
- Settlement Agreements Enforcement Division's website
specific examples can be provided upon request
- Penalty Determination Method LAC 33:I Chapter 7
- Beneficial Environmental Projects LAC 33:I Chapter 25
FAQs
- Judicial Interest..... provided by the Louisiana State Bar Association

