

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MCILHENNY COMPANY

AI # 31163

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

* **Settlement Tracking No.**
* **SA-WE-18-0080**
*
* **Enforcement Tracking Nos.**
* **WE-CN-15-00643**
* **WE-CN-15-00643A**
*
* **Docket No. 2018-3983-EQ**
*

SETTLEMENT

The following Settlement is hereby agreed to between McIlhenny Company (“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 corporation that owns and/or operates a 4-cell oxidation pond facility located in Iberia Parish, Louisiana (“the Facility”).

II

On March 9, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-00643, attached as Exhibit A.

On February 21, 2017, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-00643A, attached as Exhibit B.

III

In response to Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-00643A, Respondent made a timely request for a hearing.

IV

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

V

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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which Four Hundred Eighty -Three and 29/100 Dollars (\$483.29) 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).

VI

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.

VII

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.

VIII

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.

IX

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.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Iberia 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.

XI

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 C).


XII

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

XIII

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.

McIlhenny Company

BY: 
(Signature)

Anthony A. Simmons
(Printed)


TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 23rd day of May, 20 19, at Avery Island.

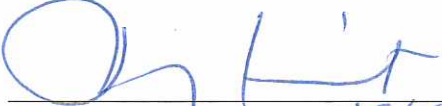

NOTARY PUBLIC (ID # 56452)

Cheryl D Inzerello
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: 
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of Oct., 20 19, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: 
Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312

**CONSOLIDATED COMPLIANCE ORDER &
NOTICE OF POTENTIAL PENALTY**



Enforcement Tracking No.	WE-CN-15-00643	Certified Mail No.	7014 0510 0001 5486 2411
Agency Interest (AI) No.	31163	Contact Name	Diane Matthews
Alternate ID No.	LA0006858	Contact Phone No.	225 219-3078
Respondent:	E.A. McIlhenny Enterprises, Incorporated	Facility Name:	Avery Island
	c/o John Jeffery Simon	Physical Location:	LA Highway 329
	Agent for Service of Process		
	154 Duperier Ave.	City, State, Zip:	Avery Island
New Iberia, LA 70563	Parish:	Iberia	

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I.	The Respondent owns and/or operates a 4-cell oxidation pond with 11-acre marsh located on Louisiana Highway 329 Avery Island, Iberia Parish, Louisiana. Under the terms and conditions of LPDES Permit LA0006858 the Respondent is permitted to discharge wash down water, compressor cooling water, sanitary wastewater and storm water into Bayou Petite Anse all waters of the state.	
	The Respondent owns a 500-gallon sanitary waste water treatment unit located in the guard shack area. The unit is listed in the permit application submitted to the Department on or about May 11, 2010, as outfall 002. However, the permit only list outfall 001 (sanitary, facility wash down, storm water & compressor cooling waters) and outfall 003 (storm water). The inspector did not observe a discharge from outfall 002 during time of inspection.	
	Date of Violation	Description of Violation
II.	Inspection(s) 03/16/2015	The Respondent failed to comply with the terms and conditions of the permit LA0006858. Specifically, sample collection for BOD and TSS are conducted where the wastewater enters the marsh system but should be taken at the final outfall to Bayou Petite Anse, in violation of LPDES Permit (LA0006858; Part I; Effluent Limitations and Monitoring Requirements; Condition T-2, page (4 of 5) and Standard Conditions Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.
III.	Inspection(s) 03/16/2015	The Respondent failed to properly operate and maintain its oxidation pond. Specifically, permit requires the flow to be continuously recorded but the flow meter was inoperable at time of inspection, in violation of LPDES Permit (LA0006858; Part III, Section C-6, page (7 of 18) and Standard Conditions A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E.
IV.	Inspection(s) & File Review 03/16/2015 07/20/2015	The Respondent failed to prepare a Spill Prevention Control (SPC) Plan as required by permit, in violation of LAC 33:IX.905.B. The Respondent prepared a Spill Prevention Control and Countermeasure Plan in accordance with EPA regulations and not according to LDEQ regulations.
V.	File Review 07/20/2015	The Respondent failed to comply with LPDES permit LA0006858. Specifically, the Respondent failed to submit Discharge Monitoring Reports (DMRs) from April-June 2013, in violation of LPDES permit (LA0006858; Submittal Action Requirements S-2, and Standard Conditions Section A.2), Section D-4, La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.

ORDER

Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:

I.	To take, immediately upon receipt of this COMPLIANCE ORDER , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to ; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER . This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.
III.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , properly completed DMRs for the monitoring periods of April-June 2013 and April-June 2015 mentioned in Paragraph (5) of the "Findings of Fact" portion of this Order. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and certified. If no sampling or monitoring was conducted during a monitoring period, the Respondent should indicate this in the space provided for "Comment and Explanation of Any Violations."
IV.	To develop and implement, within thirty (30) days after receipt of this COMPLIANCE ORDER , an adequate Spill Prevention and Control Plan (SPC) as outlined in LAC 33:IX.907 and submit a copy to the Enforcement Division within forty-five (45) days after receipt of this COMPLIANCE ORDER .
V.	If the Respondent demonstrates a need to continue the discharge from outfall 002 (guard shack), the Respondent shall submit to the Water Permits Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , all the necessary documents as referenced in Paragraph VII of the "Order" section for a request for the Department's consideration of proper coverage and permitting of any discharge of pollutants from the facility to waters of the state; and operate and maintain the facility to meet the "INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS" contained in Attachment A of this COMPLIANCE ORDER ; or



VI.	If the Respondent does not choose to discharge to waters of the state, the Respondent shall, within thirty (30) days after receipt of this COMPLIANCE ORDER , provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to waters of the state.
VII.	To submit a completed LPDES Permit Application to the Permits Division, within thirty (30) days after receipt of this COMPLIANCE ORDER . The completed LPDES Permit Application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25. The three sets (the original and two copies) of the completed permit application should be submitted to the Permits Division at the address specified in this document. A copy of the permit application should also be sent to the Enforcement Division.

RIGHT TO APPEAL

I.	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER .
II.	The request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the address specified in this document.
III.	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this COMPLIANCE ORDER may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.). The Department may amend or supplement this COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
IV.	This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.
V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this COMPLIANCE ORDER shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.
VII.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.	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.
II.	Prior to the issuance of additional appropriate enforcement action(s), 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 Diane Matthews at 225 219-3078 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY .
III.	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 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 violation(s) 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 that statement.
IV.	This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.

CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Diane Matthews	Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-15-00643 Agency Interest No. 31163
Permit Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

**HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY**

- To appeal the **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**.

- To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified.
 - The COMPLIANCE ORDER will not be closed if the Respondent owes outstanding fees or penalties to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

- To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
 - The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
 - The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
 - The settlement offer amount may be entered on the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent must include a justification of the offer.
 - **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
 - The NOTICE OF POTENTIAL PENALTY will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Diane Matthews at 225 219-3078 or Diane.Matthews@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 3-9-16

- Attachment(s)
- Request to Close
 - Appendix A

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

**CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE**



Enforcement Tracking No.	WE-CN-15-00643	Contact Name	Diane Matthews
Agency Interest (AI) No.	31163	Contact Phone No.	225 219-3078
Alternate ID No.	LA0006858		
Respondent:	E.A. McIlhenny Enterprises, incorporated	Facility Name:	Avery Island
	c/o John Jeffery Simon Agent for Service of Process	Physical Location:	Louisiana Highway 329
	154 Duperier Ave	City, State, Zip:	Avery Island, LA 70513
	New Iberia, LA 70563	Parish:	Iberia

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs (II, III, V, VI, VII) of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph (IV) of the "Order" portion of the COMPLIANCE ORDER.		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY WE-CN-15-00643, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY WE-CN-15-00643, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY WE-CN-15-00643 and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Diane Matthews

If you have questions or need more information, you may contact Diane Matthews at 225 219-3078 or Diane.Matthews@la.gov.

ATTACHMENT A

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

As required in Part V of the "Order" portion of this **COMPLIANCE ORDER**, to protect water quality, if **the Respondent chooses to discharge to waters of the state**, a completed LPDES notice of intent (NOI) or appropriate LPDES permit application must be submitted to the Office of Environmental Services within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The completed LPDES notice of intent (NOI) or permit application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25 (please reference **WE-CN-15-00643**, AI# 31163, and **LA0006858**). The three copies (the original and two copies) of the completed application or NOI should be submitted to:

Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Water Permits Division

A copy of the completed application or notice of intent (NOI) must also be sent to the Enforcement Division. For help or questions concerning the application or notice of intent (NOI), you may contact LDEQ Small Business Assistance at 1-800-259-2890.

If a completed LPDES notice of intent (NOI) or permit application is not submitted within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the following interim discharge limitations and monitoring requirements will be terminated and the Department may take additional enforcement action.

The Respondent shall notify the Enforcement Division within fifteen (15) days after receipt of a final LPDES permit issued by the Department.

If the Respondent chooses to discharge to waters of the state, the following interim limitations and monitoring requirements shall apply:

The point of discharge is hereby designated as Outfall 002. The discharge from this facility's operation shall be monitored at the point of discharge prior to entering waters of the state of Louisiana. The Respondent shall monitor and report all discharges from its facility under the following interim effluent limitations and monitoring requirements until a final LPDES permit is issued by the Department or until the Respondent is otherwise notified in writing by the Department.

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

OUTFALL 002
TREATED SANITARY WASTEWATER

Outfall No.	Effluent Parameter	Mass Limitations (lb/day)		Concentration Limitations (mg/l unless stated)		Measurement Frequency	Sample Type
		Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
001	Flow (GPD)			N/A	Report	1/3 months	Estimate

001	BOD ₅ (mg/L)			N/A	45	1/3 months	Grab
001	TSS ¹ (mg/L)			N/A	45	1/3 months	Grab
001	Fecal Coliform (Colonies/100 mL) ²			N/A	400	1/3 months	Grab
001	pH (standard units) ³			---	---	1/3 months	Grab

Effluent Limits Basis/Other Requirements/Notes:

If the value of this effluent characteristic exceeds the Daily Max limit in any sample, then the Monitoring Frequency shall increase to 1 month. This increased frequency shall continue until a sample demonstrates a value less than or equal to the Daily Max. If the pH value is below 6.0 standard units or above 9.0 standard units, then the Measurement Frequency shall increase to 1 month. This increased frequency shall continue until a sample demonstrates a value between 6.0 and 9.0 standard units. The results of the increased frequency shall be included in the calculation and reporting of the data submitted in the DMR.

¹ If the treatment unit is an oxidation pond, the daily maximum limitation shall be 135 mg/L.

² If chlorination is chosen as a disinfection method: Future water quality studies may indicate potential toxicity from the presence of residual chlorine in the treatment facility's effluent. Therefore, the permittee is hereby advised that a future Total Residual Chlorine Limitation may be required if chlorine is used as a method of disinfection. In many cases, this becomes a NO MEASURABLE Total Residual Chlorine Limitation. If such a limitation were imposed, the permittee would be required to apply for an individual permit or the coverage under this general permit would be modified to include Schedule H.

³ The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units. The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.

The Respondent shall comply with the General Criteria for water quality standards listed in LAC 33:IX.1113.B.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge point(s) prior to mixing with other waters.

Laboratory procedures and analyses shall be conducted by a commercial laboratory that has been certified by the Department in accordance with the requirements set forth under LAC 33:I.Subpart 3, Chapters 49-55. A list of laboratories that have received accreditation is available on the Department's website located at:

<http://www.deq.louisiana.gov/portal/DIVISIONS/PublicParticipationandPermitSupport/LouisianaLaboratoryAccreditationProgram/AccreditedLaboratories.aspx>.

Questions concerning the program may be directed to (225) 219-3247.

Samples and measurements shall be representative of the volume and nature of the discharge and collected and analyzed according to the requirements of LAC 33:IX.2701.J. Monitoring results from all sample

analyses shall be reported on Discharge Monitoring Reports (DMRs) (EPA Form 3320-1) and forwarded to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Permit Compliance Unit

DMRs shall be submitted no later than the twenty-eighth (28) day of the month following the monitoring period specified in this **COMPLIANCE ORDER**. The monitoring period shall begin on the first day of the month following receipt of **COMPLIANCE ORDER WE-CN-15-00643**. The Respondent shall continue the submission of DMRs by the twenty-eighth (28) day of the month following each monitoring period until the Respondent is authorized under a LPDES permit or until otherwise notified in writing by this Department. **COMPLIANCE ORDER WE-CN-15-00643**, AI# 31163, and LA0006858 should be referenced on all DMRs submitted in accordance with this **COMPLIANCE ORDER**. Instructions for the proper completion of DMRs and examples of properly completed DMRs may be found on the Department's website at:

<http://www.deq.louisiana.gov/portal/DIVISIONS/Enforcement/WaterEnforcement.aspx>.

Blank DMR forms may also be downloaded from this website.

The Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of these interim limitations and monitoring requirements. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up auxiliary facilities or similar systems, which are installed by a facility only when the operation is necessary to achieve compliance with the conditions of these interim limitations and monitoring requirements.

These interim limitations and monitoring requirements do not convey any property rights of any sort.

If the Daily Max limitation on any parameter is exceeded, the Respondent shall report said exceedence(s) in writing to the Office of Environmental Compliance, within five (5) working days after becoming aware of the violations. **COMPLIANCE ORDER WE-CN-15-00643**, AI# 31163 and LA0006858 should be referenced on all such reports submitted in accordance with this **COMPLIANCE ORDER**. The report should include the date, time, and duration of the noncompliance; the details of the circumstances and events leading to the noncompliance; the corrective actions taken or to be taken to correct the noncompliance and if not corrected, the anticipated time the noncompliance is expected to continue; the procedures or measures taken or to be taken to prevent recurrence of the noncompliance; and a determination of whether or not the noncompliance was preventable.

For sanitary treatment plants, the plans and specifications must be approved by the Louisiana Department of Health and Hospitals, Office of Public Health, P.O. Box 4489, Baton Rouge, Louisiana 70821, (225) 342-7499. Additionally, any discharge to a highway ditch, cross ditch, or right-of-way requires approval from the Louisiana Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804-9245, (225)379-1301.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY	
Enforcement Tracking No.	WE-CN-15-00643A	Certified Mail No.	7004 2510 0006 3854 1907
Agency Interest (AI) No.	31163	Contact Name	Diane Matthews
Alternate ID No.	LA0006858	Contact Phone No.	225 219-3078
Respondent:	McIlhenny Company, Inc.	Facility Name:	Avery Island
	c/o John Simmons	Physical Location:	LA Highway 329
	Agent for Service of Process		
	P.O. Box 99001	City, State, Zip:	Avery Island, LA 70513
	Avery Island, LA 70513	Parish:	Iberia
This AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B). This AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY replaces CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, WE-CN-15-00643 issued on March 9, 2016 in its entirety.			
FINDINGS OF FACT			
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.			
I.	The Respondent owns and/or operates a 4-cell oxidation pond with 11-acre marsh located on Louisiana Highway 329 Avery Island, Iberia Parish, Louisiana. Under the terms and conditions of LPDES Permit LA0006858 the Respondent is permitted to discharge wash down water, compressor cooling water, sanitary wastewater and storm water into Bayou Petite Anse all waters of the state.		
	Date of Violation	Description of Violation	
II.	Inspection(s) 03/16/2015	The Respondent failed to comply with the terms and conditions of the permit LA0006858. Specifically, sample collection for BOD and TSS are conducted where the wastewater enters the marsh system but should be taken at the final outfall to Bayou Petite Anse, in violation of LPDES Permit LA0006858 (Part I, Effluent Limitations and Monitoring Requirements; Condition T-2, page (4 of 5) and Standard Conditions Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A. The Respondent submitted a written response dated May 19, 2016 to the Department stating McIlhenny utilizes a third party to collect samples and has taken immediate action to instruct the third party where the sample should be obtained.	
III.	Inspection(s) 03/16/2015	The Respondent failed to properly operate and maintain its oxidation pond. Specifically, permit requires the flow to be continuously recorded but the flow meter was inoperable at time of inspection, in violation of LPDES Permit (LA0006858; Part III, Section C-6, page (7 of 18) and Standard Conditions A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E. The Respondent submitted a written response dated May 19, 2016 to the Department stating McIlhenny was in the process of repairing the flow meter at issue and has since repaired the inoperable flow meter as well as purchased a second backup flow meter to ensure compliance.	
ORDER			
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:			
I.	To take, immediately upon receipt of this COMPLIANCE ORDER, any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.		
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER, a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER. This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.		
RIGHT TO APPEAL			
I.	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER.		
II.	The request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the address specified in this document.		
III.	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this COMPLIANCE ORDER may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.). The Department may amend or supplement this COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.		
IV.	This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.		
V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this COMPLIANCE ORDER shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action		



	addressing the same violation(s), although the Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.
VII.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.	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.
II.	Prior to the issuance of additional appropriate enforcement action(s), 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 Diane Matthews at 225 219-3078 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY .
III.	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 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 violation(s) 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 that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.

CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Diane Matthews	Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-15-00643A Agency Interest No. 31163
Permit Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

- To appeal the **AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this **AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**.
- To request closure of the **COMPLIANCE ORDER** portion, the Respondent must demonstrate compliance with the "Order" portion of this **AMENDED COMPLIANCE ORDER** by completing the attached "**AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form and returning it to the address specified.
 - The **COMPLIANCE ORDER** portion will not be closed if the Respondent owes outstanding fees or penalties to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.
- To expedite closure of the **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
 - The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
 - The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
 - The settlement offer amount may be entered on the attached "**AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer.
 - **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
 - The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Diane Matthews at 225 219-3078 or Diane.Matthews@la.gov.




Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 2-21-77

Attachment(s)
- Request to Close

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

**AMENDED
 CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE**



Enforcement Tracking No.	WE-CN-15-00643A	Contact Name	Diane Matthews
Agency Interest (AI) No.	31163	Contact Phone No.	225 219-3078
Alternate ID No.	LA0006858		
Respondent:	McIlhenny Company, Inc.	Facility Name:	Avery Island
	c/o John Simmons	Physical Location:	LA Highway 329
	Agent for Service of Process		
	P.O. Box 99001	City, State, Zip:	Avery Island, LA 70513
	Avery Island, LA 70513	Parish:	Iberia

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II of the "Order" portion of the AMENDED COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY WE-CN-15-00643A, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY WE-CN-15-00643A, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional) = \$ _____

• **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.**

The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY WE-CN-15-00643A and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 Post Office Box 4312
 Baton Rouge, LA 70821
 Attn: Diane Matthews

If you have questions or need more information, you may contact Diane Matthews at 225 219-3078 or Diane.Matthews@la.gov.