

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

VALERO REFINING-MERAUX LLC

AI # 1238

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

* Settlement Tracking No.
* SA-WE-20-0020
*
* Enforcement Tracking No.
* WE-CN-18-00011
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SETTLEMENT

The following Settlement is hereby agreed to between Valero Refining-Meraux 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 petroleum refinery located in Meraux, St. Bernard Parish, Louisiana (“the Facility”).

II

On October 1, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-18-00011 (Exhibit 1).

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 ELEVEN THOUSAND TWO HUNDRED TWENTY-THREE AND 23/100 DOLLARS (\$11,223.23), of which Nine Hundred Forty-Two and 48/100 Dollars (\$942.48) 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 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 St. Bernard 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.

VALERO REFINING-MERAUX LLC

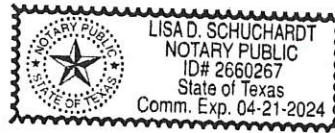
BY: [Signature]
(Signature)

Elizabeth M Bowler
(Printed)

TITLE: Sr. Managing Counsel

THUS DONE AND SIGNED in duplicate original before me this 6th day of November, 20 20, at San Antonio, TX.

[Signature]
NOTARY PUBLIC (ID # 2660267)



(stamped or printed)

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

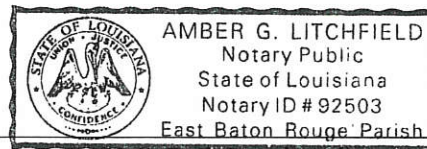
BY: [Signature]

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of February, 20 21, at Baton Rouge, Louisiana.

[Signature]


NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]

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-18-00011	Certified Mail No.	7016 2140 0000 5132 8185	
Agency Interest (AI) No.	1238	Contact Name	Richard Ober, Jr.	
Alternate ID No.	LA0003646	Contact Phone No.	(225) 219-3135	
Respondent:	Valero Refining-Meraux LLC	Facility Name:	Meraux Refinery	
	c/o C T Corporation System	Physical Location:	2500 East St. Bernard Highway	
	Agent for Service of Process	City, State, Zip:	Meraux, LA 70075	
	3867 Plaza Tower Drive Baton Rouge, LA 70816	Parish:	St. Bernard	

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 petroleum refinery located at or near 2500 East St. Bernard Highway in Meraux, St. Bernard Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0003646 on March 23, 2012, with an effective date of May 1, 2012, and an expiration date of April 30, 2017. LPDES Permit LA0003646 was subsequently modified on June 1, 2012. The Respondent submitted a permit renewal application dated October 31, 2016, and LPDES Permit LA0003646 was administratively continued until it was reissued on May 3, 2019, with an effective date of June 1, 2019, and an expiration date of May 31, 2024. Under the terms and conditions of LPDES Permit LA0003646, the Respondent is permitted to discharge treated process wastewater, once through non-contact cooling water, boiler blowdown, reverse osmosis system blowdown, spent ion exchange regenerate, filter backwash, softener regeneration water, clarifier underflow, maintenance washwater, cooling tower blowdown, miscellaneous utility wastewater, process area and non-process area stormwater runoff, and treated sanitary wastewater to the Mississippi River (subsegment 070301) (Outfalls 001 and 002), overflow of non-process area stormwater, post first flush process area stormwater, and the potential discharge of process wastewater (Outfall 003 only), miscellaneous utility wastewater, hydrostatic test wastewater and maintenance washwater to Twenty Arpent Canal (subsegment 041801) (Outfalls 003, 004, 015, and 016), and non-process area stormwater, fire pond overflows, miscellaneous utility wastewaters, and hydrostatic test wastewater to Meraux Canal, thence into Twenty Arpent Canal (subsegment 041801) (Outfall 020), all waters of the state.	
	Date of Violation	Description of Violation
II.	Inspection(s) August 30, 2017	The Respondent failed to collect samples and analyze in accordance with approved test procedures and utilize adequate laboratory controls and/or appropriate quality assurance procedures. Specifically, the inspection revealed the following for Biochemical Oxygen Demand (BOD ₅) sample analysis: (1) Standard Methods 5210 B-2001 requires at least three (3) dilutions of each sample. Only one dilution of 100% sample had been set up for each sample. (2) Standard Methods 5210 B-2001 required three (3) GGA samples should be run with each batch. Records indicated that between May 22, 2017 and September 4, 2017, the laboratory analyzed forty-six (46) BOD ₅ samples and ran only one GGA on July 13, 2017. (3) Standard Methods 5210 B-2001 requires that the GGA check have a BOD of 198 +/- 30 mg/l. The result on July 13, 2017 was 96.5 mg/l. (4) Standard Methods 5210 B-2001 required a minimum dissolved oxygen depletion of 2.0 mg/l. Only 11 of the 46 samples met this criteria. (5) Standard Methods 5210 B-2001 requires that the dissolved oxygen uptake of the dilution water not exceed 0.20 mg/l. Of the 30 dilution water checks conducted, 11 exceeded 0.20 mg/l dissolved oxygen uptake. (LPDES Permit LA0003646 (Part II, Section F and Part III, Sections A.2, B.3.a, C.5.a and C.5.c), La. R.S. 30:2076(A)(3), LAC 33:IX.2701.J.4, and LAC 33:IX.2701.E)
	Inspection(s) August 30, 2017	The Respondent failed to have records that include all monitoring information as required by LPDES Permit LA0003646. Specifically, the inspection revealed the following: (1) the in-house laboratory bench sheets for Biochemical Oxygen Demand (BOD) analysis did not contain clear evidence of the date and time of sampling, the name of the person collecting the sample, the analytical method used, the date and time of the analysis or the name of the person performing the analysis; (2) there were no records to indicate that seed was added to the sample when performing tests of industrial water for BOD; (3) there were no records to demonstrate that the pH of wastewater sampling for BOD was adjusted to 7 +/- 0.5 Standard Units; and (4) the records of the calibration of the dissolved oxygen meter were inadequate. Only the date and slope were recorded on the BOD bench sheets. (LPDES Permit LA0003646 (Part III, Sections A.2 and C.4), La. R.S. 30:2076(A)(3), LAC 33:IX.2701.J.3, and LAC 33:IX.6515.A)



IV.	<p>Inspection(s) August 30, 2017 File Review August 19, 2019</p>	<p>The Respondent failed to comply with LPDES Permit LA0003646. Specifically, the Respondent reported on Discharge Monitoring Reports (DMRs) exceedances of the permit effluent limitation daily maximum for Outfall 001 for net total organic carbon (TOC) in August 2015, May 2017, and January 2018. The permit limit is 5 mg/l and the results were 5.45 mg/l, 8.41 mg/l, and 9.12 mg/l, respectively. Additionally, the Respondent reported that it had one event in which a pH range excursion was greater than 60 minutes on the April 2019 DMR for Outfall 002. The Respondent also reported an exceedance of the daily maximum permit limitation for total suspended solids (TSS) on its DMR for May 2019 from Outfall 302. For its daily maximum, the Respondent reported 4,144 pounds per day. The daily maximum permit limitation is 1,701 pounds per day. (LPDES Permit LA0003646 (Part I, page 2 of 10 (Outfall 001), page 4 of 10 (Outfall 002), and page 7 of 10 (Outfall 302), and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)</p>
V.	<p>File Review August 19, 2019</p>	<p>The Respondent failed to sample/monitor the parameters for Outfalls 001, 002, 004, 015, 017, 018, and 019 as required by LPDES Permit LA0003646. (LPDES Permit LA0003646 (Part I, pages 2, 3, and 9 of 10 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A) The Respondent failed to sample for nitrogen and phosphorus for Outfall 302 as required by LPDES Permit LA0003646. (LPDES Permit LA0003646 (Part I, page 7 of 12 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A) <i>See Attachment 1</i></p>
VI.	<p>File Review August 19, 2019</p>	<p>The Respondent caused and/or allowed the discharge of oily fluids into the Mississippi River, waters of the state, which was not authorized by the permit. (La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D) <i>See Attachment 2</i></p>
VII.	<p>File Review August 19, 2019</p>	<p>The Respondent failed to maintain monitoring records as required by LPDES Permit LA0003646. Specifically, the Respondent reported on the April 2019 Discharge Monitoring Report for Outfall 002 that for a period of 11 hours on April 8 and April 9 the communication system for the pH meter failed, and the manual hourly pH reading paperwork was inadvertently discarded. (LPDES Permit LA0003646 (Part III, Sections A.2 and C.3), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.J.2)</p>

ORDER

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

I.	<p>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.</p>
II.	<p>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.</p>
III.	<p>To cease, upon receipt of this COMPLIANCE ORDER, any unauthorized discharges from the Respondent's facility to waters of the state.</p>

RIGHT TO APPEAL

I.	<p>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.</p>
II.	<p>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 left-hand corner of the first page of this document and should be directed to the address specified in this document.</p>
III.	<p>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 and 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.</p>
IV.	<p>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.</p>
V.	<p>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.</p>
VI.	<p>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.</p>
VII.	<p>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.</p>

NOTICE OF POTENTIAL PENALTY

I.	<p>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.</p>
II.	<p>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 Richard Ober, Jr. at (225) 219-3135 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY.</p>
III.	<p>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</p>

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: Richard Ober, Jr.	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-18-00011 Agency Interest No. 1238
Water Permits 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.
 - Before requesting closure of the **COMPLIANCE ORDER** portion, 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.
 - Before requesting closure of the **NOTICE OF POTENTIAL PENALTY** portion, 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 Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.




 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 10-17-19

cc: Justin Stubbe
 Environmental Manager
 Valero Refining-Meraux LLC
 1615 E. Judge Perez Drive
 Chalmette, LA 70043-5660

- Attachment(s)
- Request to Close
 - Attachment 1
 - Attachment 2
 - Settlement Brochure

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER & POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE			
			
Enforcement Tracking No.	WE-CN-18-00011	Contact Name	Richard Ober, Jr.
Agency Interest (AI) No.	1238	Contact Phone No.	(225) 219-3135
Alternate ID No.	LA0003646		
Respondent:	Valero Refining-Meraux LLC	Facility Name:	Meraux Refinery
	c/o C T Corporation System	Physical Location:	2500 East St. Bernard Highway
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Meraux, LA 70075
	Baton Rouge, LA 70816	Parish:	St. Bernard
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 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)			
<i>(check the applicable option)</i>			
<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:I.Subpart1.Chapter7.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-18-00011), 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-18-00011), 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-18-00011) 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: Richard Ober, Jr.			

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

Attachment 1

Date	Outfall	Parameter	Comments
7/1/2014 - 9/30/2014	004	pH, total organic carbon (TOC), oil and grease	Stormwater sample was not collected during the reporting period. An investigation was to be performed to determine the cause.
7/1/2014 - 9/30/2014	015	pH, TOC, oil and grease	Stormwater sample was not collected during the reporting period. An investigation was to be performed to determine the cause.
7/1/2014 - 9/30/2014	017	pH, TOC, oil and grease	Stormwater sample was not collected during the reporting period. An investigation was to be performed to determine the cause.
7/1/2014 - 9/30/2014	018	pH, TOC, oil and grease	Stormwater sample was not collected during the reporting period. An investigation was to be performed to determine the cause.
7/1/2014 - 9/30/2014	019	pH, TOC, oil and grease	Stormwater sample was not collected during the reporting period. An investigation was to be performed to determine the cause.
10/1/2014 - 10/31/2014	001	pH, flow, temperature (not monitored continuously)	Due to power interruptions and multiple device failures, the continuous meters (pH, temperature, and flow) were out for an extended period of time during October 2014. PH data was unavailable for approximately 52 hours. No hourly samples were collected during this period. Flow measurement was restored after days. Replacement parts were obsolete and had long delivery time. Replacement devices had to be researched to identify models still supported by the manufacturers. The average flow was estimated at 32 MGD with a maximum of 45 MGD. Temperature data was unavailable for approximately 52 hours. Several major process units utilizing once-through cooling water were shut down during this period, reducing flows. The likelihood of pH or temperature excursions was low.
9/1/2018 - 9/30/2018	002	TOC	The monthly TOC sample for this outfall was not collected. Additional measures have been developed to prevent this from recurring.
6/1/2019 - 6/30/2019	302	Nitrogen and phosphorus	The samples were inadvertently overlooked upon the start of the new permit conditions.

Attachment 2

Date of Discharge	Substance	Approximate Amount Discharged	Cause	Corrective Action
June 7, 2018	oil	<1 barrel	A sheen resulted from a small leak in the cooling water exchanger causing a visible sheen near mile marker 87 of the Mississippi River.	According to the Respondent, boom was deployed to prevent product migration and a vacuum truck was utilized to recover pockets of accumulated product. The source of the discharge was isolated and repaired.
November 14, 2016	Gasoline	1-2 gallons	The spill of gasoline occurred on the deck of a barge during preparations to hook up a loading hose from the Valero (Meraux) dock on the Mississippi River. Gasoline was released from the hose. The spill released 1-2 gallons to the Mississippi River.	The 2-3 gallons spilled to the dock were cleaned immediately.
November 4, 2016	oil	<1 gallon	The Respondent reported a sheen coming from their cooling water exchanger.	According to a representative of the Respondent, to correct the issue, the water pressure would be raised as a temporary fix to stop the oil from releasing. The Respondent reported that it planned on replacing a valve on the exchanger to permanently stop the oil from discharging. Less than one gallon was released to the Mississippi River which naturally dissipated.

SETTLEMENT AGREEMENTS

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.

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).

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.

DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	NATURE AND GRAVITY OF THE VIOLATION		
	MAJOR	MODERATE	MINOR
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.

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.

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.

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 33:1 Chapter 7
Beneficial Environmental Projects	LAC 33:1 Chapter 25 FAQs
Judicial Interest	provided by the Louisiana State Bar Association

