

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CITY OF OPELOUSAS

AI # 11986

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

* Settlement Tracking No.
* SA-AE-20-0088
*
* Enforcement Tracking No.
* AE-CN-15-01084
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SETTLEMENT

The following Settlement is hereby agreed to between City of Opelousas (“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 governmental entity that owns and/or operates a water treatment facility located in Opelousas, St. Landry Parish, Louisiana (“the Facility”).

II

On April 22, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-01084 (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 TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Eight Hundred Eighty-Eight and 02/100 Dollars (\$888.02) 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), 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. Landry 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

An initial payment of \$3,000.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining \$9,000.00 is to be made in quarterly installments of \$3000.00 for one year. 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.

CITY OF OPELOUSAS

BY: Julius Alsander
(Signature)

Julius Alsander
(Printed)

TITLE: mayor

THUS DONE AND SIGNED in duplicate original before me this 15 day of July, 20 21, at Opelousas city Hall.

Margaret Ann D. Doucet
NOTARY PUBLIC (ID # 29798)

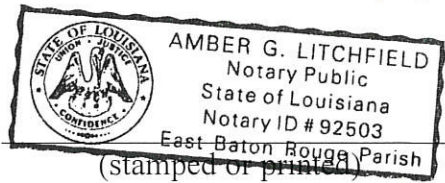
Margaret Ann D. Doucet
(stamped or printed)

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 17th day of September, 20 21, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

April 22, 2016

CERTIFIED MAIL (7014 0510 0001 7431 7212)
RETURN RECEIPT REQUESTED

CITY OF OPELOUSAS
c/o The Honorable Reginald Tatum, Mayor
P.O. Box 1879
Opelousas, LA 70571

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-15-01084
AGENCY INTEREST NO. 11986**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **CITY OF OPELOUSAS (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

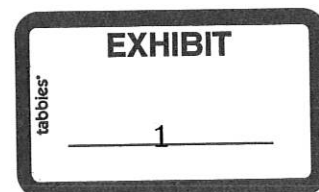
Any questions concerning this action should be directed to Pascal Ojong at (225) 219-4468.

Sincerely,

A handwritten signature in black ink, appearing to read "Celesta J. Cage".

Celesta J. Cage
Administrator
Enforcement Division

CJC/PON/pon
Alt ID No. 2600-00095
Attachment



c: City of Opelousas Water Treatment Plant
c/o Israel Roberts
530 Guidry Street
Opelousas, LA 70571

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
CITY OF OPELOUSAS	*	ENFORCEMENT TRACKING NO.
ST. LANDRY PARISH	*	
ALT ID NO. 2600-00095	*	AE-CN-15-01084
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	11986
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **CITY OF OPELOUSAS (RESPONDENT)** 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

I.

The Respondent owns and/or operates the Opelousas Water Treatment Plant (the Facility), a water treatment facility, located at 530 Guidry Street in Opelousas, St Landry Parish, Louisiana.

II.

On or about June 19, 2015, a Chemical Action Prevention Plan (CAPP) inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to develop and implement a management system to oversee the implementation of the risk management program elements. The Respondent also failed to assign a qualified person that has the overall responsibility for the development, implementation and integration of the risk management program or to document other persons with the responsibility of implementing individual requirements. This is a violation of 40 CFR 68.15 which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- B. The Respondent failed to maintain on site documentation of the method used to eliminate population and receptors for the worst and alternate case scenario. The Respondent did not have backup data for population or receptor determination. This is a violation of 40 CFR 68.39(e) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- C. The Respondent did not have safe upper and lower limits, equipment specifications, or codes and standards used to design and build the process. Each failure to have the required safety information is a violation of 40 CFR 68.48(a) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2). The inspector noted that this violation was corrected during the inspection

- D. The Respondent failed to update the hazard review when a major change in the process occurred. The inspector stated that in 2014 the Respondent removed the old chlorine delivery system and replaced it with a modern vacuum system, this was a major change in technology and equipment. The Respondent did not update the hazard review after the major change. This is a violation of 40 CFR 68.50(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- E. The Respondent's operating procedures did not have consequences of deviations or steps required to correct or avoid deviations. The failure of the operating procedures to address the consequences of deviations and steps required to correct or avoid deviations is a violation of 40 CFR 68.52(b)(7), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- F. The Respondent failed to document initial training for an operator. The Respondent also failed to document that operators were trained in updated procedures. The Respondent's failure to have the required documentation is a violation of 40 CFR 68.54(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- G. The Respondent failed to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment. The Respondent had no written plan that identifies or defines the procedures, methods and scope or types of activities that will be used to maintain covered process equipment. Each failure to prepare and implement procedures to maintain on-going mechanical integrity of the process equipment is a violation of 40 CFR 68.56(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- H. The Respondent failed to perform inspection and test in accordance with recognized and generally accepted good engineering practices. The Respondent installed new chlorine sensors in 2012 and the inspector noted that they have not been functionally tested since 2012. Each failure to perform inspections and tests on process equipment is a violation of 40 CFR 68.56(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

- I. The Respondent failed to conduct compliance audits every 3 years. The Respondent has never conducted a compliance audit. The failure to certify compliance by conducting compliance audits at least every 3 years is a violation of 40 CFR 68.58(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Act, the Air Quality Regulations, and all applicable permits.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the Respondent has developed and implemented a management system to oversee the implementation of the risk management program as referenced in paragraph II.A.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the Respondent now maintains on site documentation of methods used as referenced in paragraph II.B.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the Respondent has updated hazard reviews as referenced in paragraph II.D.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the operating procedures

addresses the consequences of deviations and steps required correcting or avoiding deviations as referenced in paragraph II.E.

VI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the operators were trained in updated procedures as referenced in paragraph II.F.

VII.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the Respondent has implemented procedures to maintain on-going mechanical integrity of the process equipment as referenced in paragraph II.G.

VIII.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that the Respondent has performed inspections and test on process equipment as referenced in paragraph II.H.

IX.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating that a compliance audit has been conducted as referenced in paragraph II.I.

X.

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 violations 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:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Pascal Ojong
Re: Enforcement Tracking No. AE-CN-15-01084
Agency Interest No. 11986

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

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 following:

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. AE-CN-15-01084
Agency Interest No. 11986

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.), and the Department's Rules of Procedure. 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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, 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 Pascal Ojong at (225) 219-4468 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.

Baton Rouge, Louisiana, this 22nd day of April, 2016.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Pascal Ojong