

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FLUID CRANE AND CONSTRUCTION, INC.

AI # 24393

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

* Settlement Tracking No.
* SA-WE-21-0026
*
* Enforcement Tracking No.
* WE-CN-15-01024
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SETTLEMENT

The following Settlement is hereby agreed to between Fluid Crane and Construction, Inc. (“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 light commercial facility located in New Iberia, Iberia Parish, Louisiana (“the Facility”).

II

On December 22, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-01024 (Exhibit 1).

The following violations, although not cited in the foregoing enforcement action, are included within the scope of this settlement:

The Respondent failed to comply with LPDES permit LAG480198. Specifically, the Respondent reported exceedances of permit effluent limitations for BOD5, TSS, COD, and pH from January 2016 to March 2017. (LAG480198 (Part I, Section B, Effluent Limitations pages 9 and 10 of

45, pages 28 and 29 of 45 and Standard Conditions, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

The Respondent failed to comply with LPDES permit LAG480198. Specifically, the Respondent reported exceedances of permit effluent limitations for BOD5, TSS, and fecal coliform from January 2016 to December 2016. (LAG480198 (Part I, Section B, Effluent Limitations pages 9 and 10 of 45, pages 28 and 29 of 45 and Standard Conditions, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

The Respondent failed to comply with LPDES permit LAG480198. Specifically, the Respondent failed to report flow estimates for Outfalls 01A and 01B for the second semiannual monitoring period of 2016 and for Outfall 002 for the fourth quarter of 2016. The Respondent also failed to report TSS sample results for Outfalls 01A and 01B for the second semiannual monitoring period of 2016. (LAG480198 (Part I, Section B, Effluent Limitations pages 9 and 10 of 45, pages 28 and 29 of 45 and Standard Conditions, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a)

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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which Five Hundred Sixty-Six and 73/100 Dollars (\$566.73) 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 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.

X

Payment is to be made in twelve (12) months. An initial payment of \$2,500.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining \$7,500.00 is to be made in monthly installments of \$625.00, for 12 consecutive months. 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.

FLUID CRANE AND CONSTRUCTION, INC.

BY: J. Reed
(Signature)

Joni Reano
(Printed)

TITLE: VP Fluid Crane

THUS DONE AND SIGNED in duplicate original before me this 14th day of June, 20 21, at Lafayette, Louisiana

Rachel Cunningham
NOTARY PUBLIC (ID # 13407)

Rachel Cunningham
(stamped or printed)

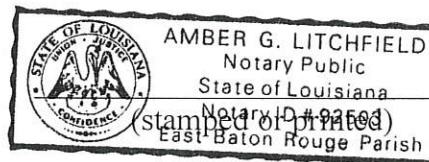
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

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



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



Enforcement Tracking No.	WE-CN-15-01024	Certified Mail No.	7014 0510 0002 3595 3427
Agency Interest (AI) No.	24393	Contact Name	Taylor Alexander
Alternate ID No.	LAG480198	Contact Phone No.	(225) 219-3811
Respondent:	Fluid Crane and Construction, Inc.	Facility Name:	Fluid Crane and Construction
	c/o Robert M. Kallam	Physical Location:	5411 W Hwy 90
	Agent for Service of Process	City, State, Zip:	New Iberia, LA 70560
	102 Versailles Blvd, Suite 400 Lafayette, LA 70501	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 light commercial facility located at 5411 W Hwy 90, New Iberia, Iberia Parish, Louisiana. Under the terms and conditions of LPDES Permit LAG480198, the Respondent is permitted to discharge equipment washwater, treated sanitary wastewater, and stormwater runoff into local drainage thence into Bayou Parc Perdu in subsegment 060901 of the Vermilion-Teche Basin, all waters of the state.	
	Date of Violation	Description of Violation
II.	Inspection(s) 04/10/2015	The Respondent caused and/or allowed the discharge of wastewater from a source or location not authorized by the permit. Specifically, the Respondent discharged water from a hand washing station through an unpermitted discharge pipe. The inspector observed white staining from the discharge in the local drainage ditch. The Respondent discontinued use of the hand washing station during the inspection. (La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D)
III.	File Review 08/26/2015	The Respondent failed to comply with LPDES permit LAG480198. Specifically, the Respondent failed to submit semiannual Discharge Monitoring Reports (DMRs) For Outfalls 01A and 01B and quarterly DMRs for Outfall 002 from September 2011 to present. The Respondent also failed to submit a DMR for Outfall 009 in 2011. (LAG480198 (Effluent Monitoring, Pages 11-13 and 24 of 29 and Standard Conditions, Section A.2), 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 all 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 immediately cease, upon receipt of this COMPLIANCE ORDER, any unauthorized discharges from the Respondent's facility to waters of the state.
IV.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER, properly completed DMRs for the monitoring periods of the last three (3) years mentioned in Paragraph III 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."
V.	To submit a completed NetDMR Subscriber Agreement to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after receipt of this COMPLIANCE ORDER. The Subscriber Agreement shall be signed and dated with an original signature and submitted to the Enforcement Division. (NetDMR is accessed through: www.epa.gov/netdmr. For assistance establishing and maintaining a NetDMR account or for NetDMR training, see attached instructions or contact the Permit Compliance Unit at deqnetdmr@la.gov.)
VI.	To submit DMRs and associated reports electronically using NetDMR beginning with the first monitoring period after approval of the NetDMR Subscriber Agreement unless otherwise notified in writing by the Department.

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 Taylor Alexander at (225) 219-3811 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.

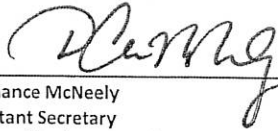
CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division:		Hearing Requests:	
Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Taylor Alexander		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-15-01024 Agency Interest No. 24393	
Permit Division (if necessary):		Physical Address (if hand delivered):	
Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division		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:I.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 Taylor Alexander at (225) 219-3811 or Taylor.Alexander@la.gov.



D. Chance McNeely
Assistant Secretary
Office of Environmental Compliance

Date: 12/22/15

Attachment(s)

- Request to Close
- NetDMR Flyer

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-15-01024	Contact Name	Taylor Alexander
Agency Interest (AI) No.	24393	Contact Phone No.	(225) 219-3811
Alternate ID No.	LAG480198		



Respondent:	Fluid Crane and Construction, Inc. c/o Robert M. Kallam Agent for Service of Process 102 Versailles Blvd, Suite 400 Lafayette, LA 70501	Facility Name: Physical Location: City, State, Zip: Parish:	Fluid Crane and Construction 5411 W Hwy 90 New Iberia, LA 70560 Iberia
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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 Paragraph IV 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)

(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-15-01024), 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-15-01024), 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.
	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-15-01024) 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: Taylor Alexander

If you have questions or need more information, you may contact Taylor Alexander at (225) 219-3811 or Taylor.Alexander@la.gov.



The attached enforcement action requires the use of NetDMR

WHAT IS NETDMR?

NetDMR is a Web-based tool that allows facilities to electronically sign and submit LPDES discharge monitoring reports (DMRs) to the LDEQ.

HOW DO I USE NETDMR?

1. Register in NetDMR
2. Submit Subscriber Agreement to LDEQ
3. Receive approval by LDEQ
4. Sign and Submit On-line

Training is offered by both LDEQ and EPA. Please check the LDEQ NetDMR Training website at <http://www.deq.louisiana.gov/netdmr> for training materials and current information offered by LDEQ. Information about EPA's training can be found at www.epa.gov/netdmr

HOW DO I REGISTER AND SUBMIT A SUBSCRIBER AGREEMENT?

(The first person to register must be an authorized signatory.)

1. Go to NetDMR website at <https://netdmr.epa.gov/netdmr>
2. Choose "Louisiana DEQ" as the Regulatory Authority from the drop-down list
3. Click the "Create a NetDMR Account" link in the login box
4. Complete the account information as required
 - a. Type of user must be "Permittee User"
 - b. Security answers must be unique and are case sensitive
5. Click "Submit" and confirm account information
6. Click the link within the verification email that has been sent to your email address
7. Create password by following instructions on the page
8. Login to NetDMR
9. Click "Request Access" link in the top left corner
10. Enter Permit Number and click "Update"
11. Select "Signatory" role and click "Add Request"
12. Click "Submit" and confirm
13. Provide Signatory Information, click "Submit" and confirm
14. Click button to print Subscriber Agreement
15. Mail in signed, original Subscriber Agreement to LDEQ for approval

If you have additional questions, please email deqnetdmr@la.gov.

