

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LANDRIEU CONCRETE AND CEMENT
INDUSTRIES LLC

AI # 1453

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

* Settlement Tracking No.
* SA-WE-21-0017
*
*
* Enforcement Tracking No.
* WE-CN-17-00774
*
*
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Landrieu Concrete and Cement Industries 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 concrete ready mix plant located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On February 2, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-17-00774 (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 FOURTEEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$14,500.00), of which Two Thousand Nine and 14/100 Dollars (\$2,009.14) 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 Orleans 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 four (4) equal installments of \$3,625.00 per quarter, over a period of twelve (12) months. The first installment 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.

LANDRIEU CONCRETE AND CEMENT
INDUSTRIES LLC

BY: [Signature]
(Signature)

TAYLOR HARNES
(Printed)

TITLE: CFO

THUS DONE AND SIGNED in duplicate original before me this 2 day of June, 20 21, at Metairie, LA.

[Signature]
NOTARY PUBLIC (ID # 137987)

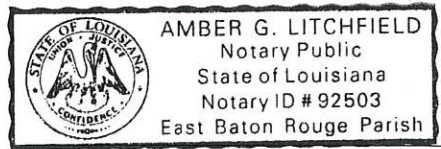
JOSEPH B. LANDRY, JR.
Notary Public
La. Bar No. 35200, Notary Public ID: 137987
(stamped or printed)
State of Louisiana
My Commission Is For Life

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 19th day of August, 20 21, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

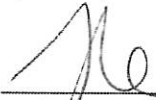
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY					
Enforcement Tracking No.	WE-CN-17-00774	Certified Mail No.	7016 2140 0000 5132 9816				
Agency Interest (AI) No.	1453	Contact Name	Jessie Canerday				
Alternate ID No.	LAG110065	Contact Phone No.	(225) 219-3814				
Respondent:	Landrieu Concrete and Cement Industries LLC	Facility Name:	Landrieu Concrete				
	c/o Renee Landrieu	Physical Location:	2034 Agriculture Street				
	Agent for Service of Process	City, State, Zip:	New Orleans, LA 70122				
	4518 Coliseum Street New Orleans, LA 70115	Parish:	Orleans				
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 concrete ready mix plant located at 2034 Agriculture Street, New Orleans, Orleans Parish, Louisiana. The Respondent was transferred authorization under Louisiana Pollutant Discharge Elimination System (LPDES) permit LAG110065 on or about May 21, 2015, with an effective date of February 27, 2015, and an expiration date of March 3, 2019. On or about June 14, 2017, Outfall 004 was modified to Outfall 006. Under the terms and conditions of LPDES permit LAG110065, the Respondent is permitted to discharge process wastewater and process area storm water from Outfall 001 and washrack and shop floor washdown wastewater from Outfall 006 into local drainage, thence into Florida canal, thence into the Lake Ponchartrain Basin (subsegment 041302), all waters of the state.						
	Date of Violation	Description of Violation					
II.	Inspection(s) & File Review April 28, 2017 & October 6, 2017	The Respondent failed to comply with LPDES permit LAG110065. Specifically, the Respondent failed to submit monthly Discharge Monitoring Reports (DMRs) for Outfall 001 from January 2016 through March 2017 and monthly DMRs for Outfall 004 from October 2015 through March 2017. (LAG110065 (Part I, Section B, pages 8 & 11 of 16), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4)					
III.	Inspection(s) & File Review April 28, 2017 & October 6, 2017	The Respondent failed to comply with LPDES permit LAG110065. Specifically, between December 2015 and May 2017, the Respondent reported exceedances of permit effluent limitations for TSS daily maximum on the monthly DMRs. (LAG110065 (Part I, Section B, page 8 of 16 and Part III, Section A.2), La. R.S. 30:2076(A)(3), LAC 33:IX.501.D and LAC 33:IX.501.A)					
		Outfall	Date	Parameter	Sample	Permit Limit	Units
		001	May 2017	TSS daily max	65	50	mg/L
		001	December 2015	TSS daily max	53	50	mg/L
IV.	Inspection(s) April 28, 2017	At the time of inspection, the facility was discharging from Outfall 001, which thence became sheet flow across a roadway inside the property, thence discharged into the Pauger Street roadside ditch, and thence into Florida Canal. The water in the Pauger Street ditch was greyish white and pink in color, with evidence of solids present. The Department collected samples at Outfall 001, the Pauger Street roadside ditch, and the point of discharge from the Pauger Street roadside ditch into Florida Canal. Sample results for TSS and pH are as follows:					
		Parameter	Location	Sample	Permit Limit	Units	
		pH	Sheet flow into Pauger Street Ditch	12	---	s.u.	
		TSS	Outfall 001	562	50	mg/L	
		TSS	Sheet flow into Pauger Street Ditch	1700	---	mg/L	
		TSS	Discharge into Florida Canal	166	---	mg/L	
		The Respondent failed to comply with LPDES permit LAG110065. Specifically, the sample result obtained by the Department at the time of inspection for Outfall 001 is an exceedance of permit effluent limitations for TSS daily maximum. (LAG110065 (Part I, Section B, page 8 of 16 and Part III, Section A.2), La. R.S. 30:2076(A)(3), LAC 33:IX.501.D, and LAC 33:IX.501.A.)					
V.	Inspection(s) & File Review April 28, 2017 & October 6, 2017	The Respondent failed to sample the effluent from Outfalls 001 and 004 on a monthly basis as required by LPDES Permit LAG110065. Specifically, on the April 2017 DMR, the Respondent reported that samples were not taken for the monitoring periods of January 2016 through April 2017. (LAG110065 (Part I, Section B, pages 8 & 11 of 16 and Part III, Section A.2), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A)					
VI.	Inspection(s) April 28, 2017	The Respondent caused and/or allowed the discharge of wastewater from a source or location not authorized by the permit. Specifically, during inspection, employees were observed washing a truck in an area other than the designated wash area. Inspectors observed runoff from the truck washing activity enter Agriculture Street and local drainage. (La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D)					
VII.	Inspection(s) April 28, 2017	The Respondent failed to prepare and implement a Pollution Prevention Plan (PPP) as required by LPDES permit LAG110065. Specifically, the permit requires that a PPP be prepared and implemented within six (6) months of the date of initial coverage of the permit. The Respondent was transferred authorization under LPDES permit LAG110065 effective February 27, 2015. The Respondent did not prepare a PPP until April 2017. (LAG110065 (Part II, Section J and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.A)					



VIII.	<p>Inspection(s) & File Review April 28, 2017 & October 6, 2017</p>	<p>The Respondent failed to maintain waters of the state in accordance with the Water Quality Regulations. Specifically, the water in the Pauger Street roadside ditch was greyish white and pink in color with evidence of solids present, and a plume of solids and water entering the Florida Canal from the Pauger Street roadside ditch (see Pictures 3, 11, 12, and 13 in the inspection report). (LAG110065 (Part I, Section B, Part II, Section F, and Part III, Section A.2), La. R. S. 30:2076(A)(3), LAC 33:IX.2701.A, and LAC 33:IX.1113.B.1)</p>
ORDER		
<p>Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:</p>		
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 all 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 immediately cease, upon receipt of this COMPLIANCE ORDER, any unauthorized discharges from the Respondent's facility to waters of the state.</p>	
IV.	<p>If the Respondent demonstrates a need to discharge from the unpermitted wash area mentioned in Paragraph VI of the "Findings of Fact" portion of this Order to waters of the state, the Respondent shall submit, to the Water Permits Division, a letter requesting the permit be modified to include the additional truck washing area. The Respondent shall not discharge pollutants from unpermitted areas to waters of the state prior to being issued a modified permit or other authorization from the Department.</p>	
V.	<p>To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER, properly completed DMRs for the monitoring periods mentioned in Paragraph II 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."</p>	
VI.	<p>To develop and implement, within thirty (30) days after receipt of this COMPLIANCE ORDER, an adequate and complete PPP as outlined in LPDES permit LAG110065 (Part II, Section J) and submit a copy to the Enforcement Division within forty-five (45) days after receipt of this COMPLIANCE ORDER.</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 Jessie Canerday at (225) 219-3814 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 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</p>	

	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:	Hearing Requests:
Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Jessie Canerday	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-17-00774 Agency Interest No. 1453
Water Permits 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	
<ul style="list-style-type: none"> • 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. <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ○ 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 Jessie Canerday at (225) 219-3814 or jessie.canerday@la.gov.



 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 2-2-18

- Attachment(s)
- Request to Close
 - Settlement Agreements Flyer

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE			
ENFORCEMENT DIVISION		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE	
POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312			
Enforcement Tracking No.	WE-CN-17-00774	Contact Name	Jessie Canerday
Agency Interest (AI) No.	1453	Contact Phone No.	(225) 219-3814
Alternate ID No.	LAG110065		
Respondent:	Landrieu Concrete and Cement Industries LLC	Facility Name:	Landrieu Concrete
	c/o Renee Landrieu Agent for Service of Process	Physical Location:	2034 Agriculture Street
	4518 Coliseum Street	City, State, Zip:	New Orleans, LA 70122
	New Orleans, LA 70115	Parish:	Orleans



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(s) V of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) VI 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-17-00774), 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-17-00774), 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-17-00774) 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: Jessie Canerday

If you have questions or need more information, you may contact Jessie Canerday at (225) 219-3814 or jessie.canerday@la.gov.

SETTLEMENT AGREEMENTS

WHAT IS A SETTLEMENT AGREEMENT?

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

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

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

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

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

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

Degree of Risk to Human Health or Property

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

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

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

Nature and Gravity of the Violation

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

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

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

The range is adjusted using the following violator specific factors:

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

