

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SUNBELT INNOVATIVE PLASTICS, LLC

AI # 17609

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

* Settlement Tracking No.
* SA-WE-20-0069
*
* Enforcement Tracking No.
* WE-P-18-00494
*
*
* Docket No. 2019-13408-DEQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Sunbelt Innovative Plastics, 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 plastics extrusion and manufacturing facility located in Slidell, St. Tammany Parish, Louisiana (“the Facility”).

II

On February 26, 2019, the Department issued to Respondent a Penalty Assessment, Enforcement Tracking No. WE-P-18-00494 (Exhibit 1).

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

The Respondent caused and/or allowed the discharge of pollutants from a source or location not authorized by the permit. Specifically, during the inspection conducted on June 18, 2020, it was observed that the Respondent caused/allowed the discharge of plastic resin pellets into the receiving

ditch at Outfall 001. Note: Per the current LPDES Permit LA0090409, there is not monitoring at Outfall 001, as all monitoring is conducted at internal Outfalls 101, 201, and 301. (La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D).

The Respondent failed to comply with LPDES permit LA0090409. Specifically, the inspection (6/18/2020) and file review (10/13/2020) revealed that the Respondent failed to submit monthly DMRs for Outfalls 001, 101, and 201 for April 2016, and quarterly DMRs for Outfall 301 for the 2nd and 3rd Quarters of 2016. (LA0090409 (Narrative & Submittal/Action Requirements, Pages 2-5 of 5 and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4).

The Respondent failed to comply with LPDES permit LA0090409. Specifically, the inspection (6/18/2020) and file review (10/13/2020) revealed that the Respondent failed to submit Progress Reports 1 and 2 regarding achievement with the final effluent limitations of CBOD₅, Ammonia, and Dissolved oxygen at Outfall 201. Progress Report 1 was due May 1, 2018, and Progress Report 2 was due May 1, 2019. (LA0090409 (Other Conditions, Section F, and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A).

The Respondent failed to comply with LPDES Permit LA0090409. Specifically, the Respondent failed to report flow on the monthly DMRs for Outfall 001 for October 2016, and Outfall 201 for October and November 2016. (LPDES Permit LA0090409 (Effluent Limitations and Monitoring Requirements, Pages 1 & 5 of 7 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4).

The Respondent failed to comply with LPDES Permit LA0090409. Specifically, a review of DMRs between April 2016 and September 2020, revealed that the Respondent reported exceedances of permit effluent limitations for Fecal coliform, BOD₅, and TSS at internal outfall 201. From May

2016, the Respondent reported 23 effluent limitation exceedance, but there have been no reported exceedance after October 2019 (LPDES Permit LA0090409 (Prior to May 1, 2017: Effluent Limitations and Monitoring Requirements, Pages 4 of 7, and Standard Conditions for LPDES Permits, Section A.2; After May 1, 2017: Effluent Limitations and Monitoring Requirements, Page 3 of 7, and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A).

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

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

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FOURTEEN THOUSAND AND NO/100 DOLLARS (\$14,000.00), of which Two Thousand Seven Hundred Thirty-Eight and 27/100 Dollars (\$2,738.27) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against

Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

IX

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-

of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XII

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

XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

SUNBELT INNOVATIVE PLASTICS, LLC

BY: _____

(Signature)

Andrew J. Cousin

(Printed)

TITLE: U.P.

THUS DONE AND SIGNED in duplicate original before me this 9 day of December, 20 21, at 11:20 Am.

[Signature]

NOTARY PUBLIC (ID # 35722)
CHRISTINE E. COUSIN

Notary Public

Notary ID No. 140244, La. Bar No. 35722

Parish of Orleans, State of Louisiana

My Commission is For Life

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

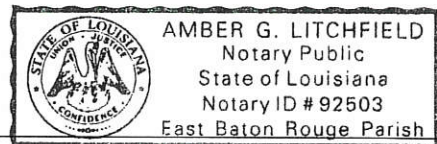
BY: _____

Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of March, 20 22, at Baton Rouge, Louisiana.

[Signature]

NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: _____

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

February 26, 2019

CERTIFIED MAIL (7016 2140 0000 5132 8901)
RETURN RECEIPT REQUESTED

SUNBELT INNOVATIVE PLASTICS, LLC
c/o Andrew J. Cousin
Agent for Service of Process
259 Plauche Street
Harahan, LA 70123

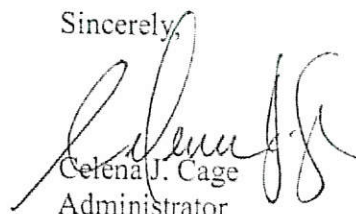
**RE: PENALTY ASSESSMENT
ENFORCEMENT TRACKING NO. WE-P-18-00494
AGENCY INTEREST NO. 17609**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **PENALTY ASSESSMENT** is hereby served on **SUNBELT INNOVATIVE PLASTICS, LLC (RESPONDENT)** for the violations described therein.

Any questions concerning this action should be directed to Scott B. Pierce at (225) 219-3723.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/SBP/sbp
Alt ID No. LA0090409
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
SUNBELT INNOVATIVE PLASTICS, LLC	*	ENFORCEMENT TRACKING NO.
ST. TAMMANY PARISH	*	
ALT ID NO. LA0090409	*	WE-P-18-00494
	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	17609
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, ET SEQ.	*	

PENALTY ASSESSMENT

The following **PENALTY ASSESSMENT** is issued to **SUNBELT INNOVATIVE PLASTICS, LLC (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(E) and 30:2050.3.

FINDINGS OF FACT

I.

The Respondent owns and/or operates a plastic extrusion and manufacturing facility located at 60051 Camp Villere Road, Slidell, St. Tammany Parish, Louisiana. Under the terms and conditions of LPDES Permit LA0090409, the Respondent is permitted to discharge contact cooling water, treated sanitary wastewater, and equipment washwater into local drainage, thence into an unnamed tributary, thence into Bayou Liberty, thence into Bayou Bonfouca (Subsegment 040907), all waters of the state. LPDES Permit LA0090409 was issued to the Respondent on January 7, 2011, effective on February 1, 2011, and expired on January 31, 2016. The Respondent submitted a renewal application on October 30, 2015, and it was determined to be administratively complete on November 5, 2015. The Department administratively continued coverage under LPDES permit LA0090409. LPDES Permit LA0090409 was re-issued to the Respondent on April 4, 2017, effective on May 1, 2017, and will expire on April 30, 2022. The Respondent was also issued

LPDES Storm Water Multi-Sector General Permit (MSGP) LAR05P280 effective May 30, 2011, which expired on May 3, 2016, and was automatically administratively continued until it was re-issued on September 6, 2016. LPDES MSGP LAR05P280 will expire on May 8, 2021.

II.

On or about December 30, 2014, and January 12, 2015, inspections and a subsequent file review on April 13, 2016, conducted by the Department revealed the following violations:

- A. The Respondent failed to comply with LPDES permit LAR05P280. Specifically, plastic pellets noted near and in Outfall 301 show that the facility's stormwater pollution prevention plan (SWP3) was not being adequately implemented. Additionally, quarterly inspection reports, annual compliance evaluations, and training records for the SWP3 were not present. (LAR05P280 (Parts 4.2.9.2, 4.16 and 9.1.1), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)
- B. The Respondent failed to comply with LPDES permit LA0090409. Specifically, the Respondent failed to report results of additional monitoring at Outfalls 001 and 101. Multiple samples for pH were taken but not reported at Outfall 001 during April 2014, and Outfall 101 between April 2012 and January 2014. The Respondent failed to report flow for Outfall 301 from April to October 2012. (LA0090409 (Standard Conditions for LPDES Permits, Sections A.2 and C.8), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.b)
- C. The Respondent failed to comply with LPDES permit LA0090409. Specifically, the Respondent failed to submit accurate/complete monthly Discharge Monitoring Reports (DMRs) for Outfall 101 from February 2013 to September 2014. According to DMRs, lab data, and loading calculations conducted by DEQ surveillance personnel, loadings for Outfall 101 were incorrectly calculated during the above-mentioned time period. (LA0090409 (Effluent Limitations and Monitoring Requirements, Pages 2-3 of 7 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.d). Additionally, the Respondent signed DMRs but did not date them.

- D. The Respondent failed to sample the effluent as required by LPDES Permit LA0090409. Specifically, samples were not taken for the following monitoring periods: 1) January through March 2012 at Outfall 001 (Flow and pH); 2) January through March 2012 (Flow, TSS, BOD₅, and Oil & Grease) and January 2013 (TSS, BOD₅, Oil & Grease) at Outfall 101; 3) January through June (BOD₅ and TSS) and January through April 2012 (Fecal Coliform) at Outfall 201; and 4) January through June 2012 (Flow, Oil & Grease, COD, pH, Oil & Grease visual and TSS) at Outfall 301. (LA0090409 (Effluent Limitations and Monitoring Requirements, Pages 1-7, and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)
- E. The Respondent failed to comply with LPDES permit LA0090409. Specifically, between May 2012 and April 2016, the Respondent reported exceedances of permit effluent limitations for Fecal Coliform, TSS, BOD₅, Oil and Grease, and COD at internal outfalls 101, 201, and 301. (LA0090409 (Effluent Limitations and Monitoring Requirements, Pages 1-7 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A) **See Table 1**

TABLE 1				
DATE	OUTFALL	PARAMETER	PERMIT LIMIT	SAMPLE VALUE
May 2012	201	Fecal Coliform	400 col/100 ml (Daily Max)	9000 col/100 ml
June 2012	201	Fecal Coliform	400 col/100 ml (Daily Max)	42000 col/100ml
July – December 2012	201	TSS	45 mg/l (Daily Max)	334 mg/l
August 2012	201	Fecal Coliform	400 col/100 ml (Daily Max)	60000 mg/l
September 2012	101	TSS	1.2 lb/day (Daily Max)	6.5 lb/day
	201	Fecal Coliform	400 col/100 ml (Daily Max)	60000 col/100 ml
July – September 2012	301	Oil and Grease	15 mg/l	49 mg/l
October 2012	101	BOD ₅	1.7 lb/day (Daily Max)	3.0 lb/day
	201	Fecal Coliform	400 col/100 ml (Daily Max)	18000 col/100 ml
November 2012	201	Fecal Coliform	400 col/100 ml (Daily Max)	60000 col/100 ml
December 2012	101	TSS	1.2 lb/day (Daily Max)	1.8 lb/day
	201	Fecal Coliform	400 col/100 ml (Daily Max)	22000 col/100 ml
October – December 2012	301	TSS	45 mg/l (Daily Max)	51 mg/l
January 2013	201	Fecal Coliform	400 col/100 ml (Daily Max)	60000 col/100 ml
February 2013	201	Fecal Coliform	400 col/100 ml (Daily Max)	3800 col/100 ml
January – March 2013	301	COD	300 mg/l (Daily Max)	570 mg/l
January – June 2013	201	TSS	45 mg/l (Daily Max)	67 mg/l
		BOD ₅	45 mg/l (Daily Max)	49 mg/l
April 2013	201	Fecal Coliform	400 col/100 ml (Daily Max)	2400 col/100ml
May 2013	201	Fecal Coliform	400 col/100 ml (Daily Max)	60000 col/100 ml
		Fecal Coliform	400 col/100 ml (Daily Max)	3600 col/100 ml
July 2013	201	Fecal Coliform	400 col/100 ml (Daily Max)	727 col/100 ml
July – December 2013	201	TSS	45 mg/l (Daily Max)	46 mg/l
March 2014	101	TSS	1.2 lb/day (Daily Max)	1.3 lb/day
	201	Fecal Coliform	400 col/100 ml (Daily Max)	440000 col/100ml
January – March 2014	301	TSS	45 mg/l (Daily Max)	55 mg/l
January - June 2014	201	BOD ₅	45 mg/l (Daily Max)	1160 mg/l
	201	TSS	45 mg/l (Daily Max)	2700 mg/l
April 2014	201	Fecal Coliform	400 col/100 ml (Daily Max)	14000 col/100ml
May 2014	201	Fecal Coliform	400 col/100 ml (Daily Max)	8000 col/100ml
June 2014	201	Fecal Coliform	400 col/100 ml (Daily Max)	57000 col/100ml
July 2014	201	Fecal Coliform	400 col/100 ml (Daily Max)	50000 col/100ml
October 2014	201	Fecal Coliform	400 col/100 ml (Daily Max)	2700 col/100ml
July – December 2014	201	TSS	45 mg/l (Daily Max)	100 mg/l
		BOD ₅	45 mg/l (Daily Max)	96 mg/l
January - June 2015	201	BOD ₅	45 mg/l (Daily Max)	93 mg/l
	201	TSS	45 mg/l (Daily Max)	91 mg/l
February 2015	201	Fecal Coliform	400 col/100 ml (Daily Max)	60000 col/100ml
July – December 2015	201	Fecal Coliform	400 col/100 ml (Daily Max)	28000 col/100 ml

III.

On August 1, 2016, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. WE-CN-16-00013 to the Respondent.

IV.

A civil penalty under Section 2025(E) and 2050.3 of the Act may be assessed for the violations described herein.

V.

Having considered the factors set forth in Section 2025(E)(3) of the Act, and in light of all facts and circumstances presently known, a civil penalty would be appropriate, equitable, and justified.

ASSESSMENT

VI.

A penalty in the amount of **SIXTEEN THOUSAND TWO HUNDRED THIRTY-EIGHT DOLLARS AND TWENTY-SEVEN CENTS (\$16,238.27)** is hereby assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.

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 **PENALTY ASSESSMENT**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **PENALTY ASSESSMENT**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **PENALTY ASSESSMENT** 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. WE-P-18-00494
Agency Interest No. 17609

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 **PENALTY ASSESSMENT** 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 Division of Administrative Law (DAL) Procedural Rules. The Department may amend or supplement this **PENALTY ASSESSMENT** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **PENALTY ASSESSMENT** shall become a final enforcement action unless the request for a 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 violations described herein and the assessed penalty.

V.

The Respondent must make full payment of the civil penalty assessed herein no later than fifteen (15) days after the assessment becomes final. Penalties are to be made payable to the Department of Environmental Quality, and mailed to:

Department of Environmental Quality
Office of Management and Finance
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attn: Rhonda Mack, Accountant
Re: Enforcement Tracking No. WE-P-18-00494
Agency Interest No. 17609

Enclose with your payment the attached Penalty Payment form.

VI.

Upon the penalty assessed herein becoming final because of the Respondent's failure to timely file a request for a hearing, and upon the Respondent's failure to pay the civil penalty provided herein or failure to make arrangements satisfactory to the Department for such payment, this matter shall be referred to the Attorney General for collection of the penalty plus all costs associated with the collection.

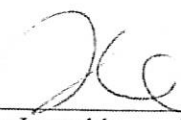
VII.

For each violation described herein, the Department reserves the right to seek compliance with its rules and regulations in any manner allowed by law and nothing herein shall be construed to preclude the right to seek such compliance.

VIII.

This **PENALTY ASSESSMENT** is effective upon receipt.

Baton Rouge, Louisiana, this 26th day of February, 2019.



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: Scott B. Pierce

PENALTY PAYMENT FORM

Please attach this form to your penalty payment
and submit to:

Department of Environmental Quality
Office of Management and Finance
P. O. Box 4303
Baton Rouge, Louisiana 70821-4303
Attn: Rhonda Mack, Accountant

Respondent: Sunbelt Innovative Plastics, LLC

Enforcement Tracking Number: WE-P-18-00494

Penalty Amount: \$16,238.27

AI Number: 17609

Alternate ID Number: LA0090409

TEMPO Activity Number: ENF20180001

**For Official Use Only.
Do Not write in this Section.**

Check Number:

Check Date:

Check Amount:

Received Date:

PIV Number:

PIV Date:

Stamp "Paid" in the box to the right
and initial.

Route Completed form to:

Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 1 of 11

PENALTY CALCULATION WORKSHEET

Penalty Event #1 – Paragraph II.A - Stormwater Pollution Prevention Plan (SWP3) was not being adequately implemented

Violation Specific Factors

Degree of Risk/Impact to Human Health or Property: Minor

Justification:

Risk deemed Minor since the violation did not result in impacts or significant risk to human health and the environment (HH&E). Observation made during the inspection did not indicate any direct presentation of actual harm or substantial risk of harm or show cause of any measurable detrimental effect to the environment or public health.

Nature and Gravity of the Violation: Moderate

Justification:

Nature and Gravity deemed Moderate because the Respondent deviated substantially from the regulations. Although, a SWP3 was in place, the Respondent had not implemented several components of the plan as spilled plastic pellets were found in around the outfall, quarterly inspection reports and annual compliance evaluations were not conducted, and there were no training records to document training was conducted since the effective date of the permit.

Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.

Adjustment = 0%

Justification:

The Respondent was issued Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. WE-CN-16-00031, the subject matter of this penalty assessment. Prior to issuance of the aforementioned action, there had been no previous enforcement actions issued to the Respondent.

2. The gross revenues generated by the Respondent.

Adjustment = 10%

Justification:

CONOPP Enforcement Tracking No. WE-CN-16-00013 issued to the Respondent on August 1, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; however, via publicly provided information online, the Respondent had an estimated annual revenue in 2017 at \$13,809,372 and in 2018 at \$12,428,435. Therefore, it is viewed by the Department that the Respondent has sufficient revenue to comply with

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 2 of 11

all applicable regulations and/or permit conditions and also has the ability to pay a reasonable penalty.

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.

Adjustment = 10%

Justification:

The Respondent is responsible for causing and/or allowing the violation to occur, but did not exhibit any recalcitrance, defiance or indifference to the regulations or order.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.

Adjustment = 0%

Justification:

There were no known damages associated with this violation.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

Adjustment = 0%

Justification:

The Respondent is not required to immediately notify the Department of this violation. The Respondent did not conceal or attempt to conceal this violation.

Total Percentage for Violator Specific Adjustment Factors: 20%

Penalty Range for the Penalty Event
(using the Violation Specific Factors
and the Penalty Matrix)

Minimum (A) \$500
Maximum (C) \$1500

Sum of the Percentages for the Penalty Event
(using the Violator Specific Factors)

Sum of %s (B) 20%

Formula(s) to obtain a penalty amount for each
Penalty event

$P = A + (B \times [C-A])$

Penalty Amount for Penalty Event = \$700

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 3 of 11

Penalty Event #2 – Paragraph II.B - Failed to report results of additional monitoring at Outfalls 001 and 101

Violation Specific Factors

Degree of Risk/Impact to Human Health or Property: Minor

Justification:

Risk deemed Minor since the violation did not result in impacts or significant risk to HH&E and were administrative in nature.

Nature and Gravity of the Violation: Moderate

Justification:

Nature and Gravity deemed Moderate because the Respondent deviated substantially from the regulation. Specifically, although multiple sampling was performed, the Respondent failed to report the additional sampling over an extended period of time.

Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.

Adjustment = 0%

Justification:

The Respondent was issued Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. WE-CN-16-00031, the subject matter of this penalty assessment. Prior to issuance of the aforementioned action, there had been no previous enforcement actions issued to the Respondent.

2. The gross revenues generated by the Respondent.

Adjustment = 0%

Justification:

CONOPP Enforcement Tracking No. WE-CN-16-00013 issued to the Respondent on August 1, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; however, via publicly provided information online, the Respondent had an estimated annual revenue in 2017 at \$13,809,372 and in 2018 at \$12,428,435. However, the Department has determine that gross revenue did not contribute to this violation.

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 4 of 11

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.
 Adjustment = 10%
 Justification:
 The Respondent is responsible for causing and/or allowing the violation to occur, but did not exhibit any recalcitrance, defiance or indifference to the regulations or order.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.
 Adjustment = 0%
 Justification:
 There were no known damages associated with this violation.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.
 Adjustment = 0%
 Justification:
 The Respondent is not required to immediately notify the Department of this violation. The Respondent did not conceal or attempt to conceal this violation.

Total Percentage for Violator Specific Adjustment Factors: 10%

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$500</u>
	Maximum (C) <u>\$1,500</u>

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>10%</u>
---	--------------------------

Formula(s) to obtain a penalty amount for each Penalty event. <u>Note:</u> Multiplied by 3 for each penalty event.	$P = 3[A + (B \times [C-A])]$
--	-------------------------------

The Department assesses 3 penalty events based on each year the violations occurred, 2012, 2013, and 2014. Multiple pH samples were taken during single monitoring periods between 2012 and 2014. Although only one sample was required, if more than one is taken, all results are to be reported per the permit requirements. In addition, there was an incidence of failing to report flow from April 2012 to October 2012.

Penalty Amount for Penalty Event = \$1,800

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 5 of 11

Penalty Event #3 – Paragraph II.C - Failed to submit accurate/complete monthly Discharge Monitoring Reports (DMRs) for Outfall 101

Violation Specific Factors

Degree of Risk/Impact to Human Health or Property: Minor

Justification:

Risk deemed Minor since the violation did not result in impacts or significant risk to HH&E and was administrative in nature.

Nature and Gravity of the Violation: Moderate

Justification:

Nature and Gravity deemed Moderate because the Respondent deviated substantially from the regulation. Specifically, although sampling and reporting was performed, the Respondent failed to calculate loading correctly over an extended period of time (February 2013 to September 2014).

The Department will consider this as one minor/moderate penalty event.

Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.

Adjustment = 0%

Justification:

The Respondent was issued Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. WE-CN-16-00031, the subject matter of this penalty assessment. Prior to issuance of the aforementioned action, there had been no previous enforcement actions issued to the Respondent.

2. The gross revenues generated by the Respondent.

Adjustment = 0%

Justification:

CONOPP Enforcement Tracking No. WE-CN-16-00013 issued to the Respondent on August 1, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; however, via publicly provided information online, the Respondent had an estimated annual revenue in 2017 at \$13,809,372 and in 2018 at \$12,428,435. However, the Department has determine that gross revenue did not contribute to this violation.

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 6 of 11

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.
Adjustment = 10%
Justification:
The Respondent is responsible for causing and/or allowing the violation to occur, but did not exhibit any recalcitrance, defiance or indifference to the regulations or order.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.
Adjustment = 0%
Justification:
There were no known damages associated with this violation.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.
Adjustment = 0%
Justification:
The Respondent is not required to immediately notify the Department of this violation. The Respondent did not conceal or attempt to conceal this violation.

Total Percentage for Violator Specific Adjustment Factors: 10%

Penalty Range for the Penalty Event
(using the Violation Specific Factors
and the Penalty Matrix)

Minimum (A) \$500
Maximum (C) \$1,500

Sum of the Percentages for the Penalty Event
(using the Violator Specific Factors)

Sum of %s (B) 20%

Formula(s) to obtain a penalty amount for each
Penalty event

$P = A + (B \times [C-A])$

Penalty Amount for Penalty Event = \$600

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 7 of 11

Penalty Event #4 – Paragraph II.D - Failed to sample the effluent

Violation Specific Factors

Degree of Risk/Impact to Human Health or Property: Minor

Justification:

Risk deemed Minor since the violation did not result in impacts or significant risk to HH&E. Although, the Respondent had thirteen (13) instances of failing to sample the effluent at multiple outfalls, documentation provided by the Respondent demonstrated that the occurrences were administrative in nature.

Nature and Gravity of the Violation: Moderate

Justification:

Nature and Gravity deemed Moderate because the Respondent deviated substantially from the regulation. Specifically, although there was some implementation of the effluent limitation requirements, there was a high frequency of exceedances that negated the intent of the requirements.

Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.

Adjustment = 0%

Justification:

The Respondent has no prior history of violations or repeated noncompliance.

2. The gross revenues generated by the Respondent.

Adjustment = 10%

Justification:

CONOPP Enforcement Tracking No. WE-CN-16-00013 issued to the Respondent on August 1, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; however, via publicly provided information online, the Respondent had an estimated annual revenue in 2017 at \$13,809,372 and in 2018 at \$12,428,435. Therefore, it is viewed by the Department that the Respondent has sufficient revenue to comply with all applicable regulations and/or permit conditions and also has the ability to pay a reasonable penalty.

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 8 of 11

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.
Adjustment = 20%
Justification:
The Respondent is responsible for causing and/or allowing the violation to occur, but did not exhibit any recalcitrance, defiance or indifference to the regulations or order.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.
Adjustment = 0%
Justification:
There were no known damages associated with this violation.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.
Adjustment = 0%
Justification:
The Respondent is not required to immediately notify the Department of this violation.
The Respondent did not conceal or attempt to conceal this violation.

Total Percentage for Violator Specific Adjustment Factors: 30%

Penalty Range for the Penalty Event
(using the Violation Specific Factors
and the Penalty Matrix)

Minimum (A) \$500
Maximum (C) \$1,500

Sum of the Percentages for the Penalty Event
(using the Violator Specific Factors)

Sum of %s (B) 30%

Formula(s) to obtain a penalty amount for each
Penalty event. Note: Multiplied by 13 for each
penalty event

$P = 13 \times \{A + (B \times [C-A])\}$

Penalty Amount for Penalty Event = \$10,400

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 9 of 11

MONETARY BENEFIT OF NONCOMPLIANCE

LAC 33:1.705.G

The Department shall consider the monetary benefits realized through noncompliance. Any monetary benefits calculated may be added to the penalty subtotal. However, the amount calculated may not cause the penalty subtotal to exceed the maximum penalty amount allowed by law. A cash penalty should be collected unless it has been demonstrated and documented that the violator cannot pay the cash penalty.

Justification/Explanation/Calculation of Benefit of Noncompliance

The Respondent did not enjoy any benefit of noncompliance based on the violations presented in WE-CN-16-00013. Specifically, the majority of the violations were administrative in nature and did not result in any economic benefit. Although, there were failures to sample, the Respondent provided sufficient documentation dated December 27, 2016, indicating the sampling for the periods specified in the action were paid for; however, there were miscommunications and errors made by the previous lab hired to sample.

Therefore, the Department has determined that there was no benefit of noncompliance arising from the circumstances noted by the violations presented in the above-referenced CONOPP.

Total Monetary Benefit of Noncompliance = \$0

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 10 of 11

COMPUTATION OF RESPONSE COST
LAC33:I.705.H

Response Costs—the costs to the state of any response action made necessary by a penalty event that are not voluntarily paid by the violator. These costs shall include, but are not limited to, the costs of surveillance staff activities including cleanup costs and the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance. (See LAC 33:I:703.A)

The following is a breakdown of response costs for this Penalty Assessment.

Personnel (A)	No. of Hours (B)	Hourly Rate of Pay (C)	Direct Cost (D)	Approved Federal Rate (E)	Indirect Cost (F)	Subtotal (G)
Enforcement Division						
Enf Writer A (HB)	40	\$24.04	\$961.60	68.75%	\$661.10	\$1,622.70
Enf Writer B (SBP)	4	\$26.28	\$105.12	78.24%	\$82.25	\$187.37
Enf Writer B (SBP)	8	\$26.28	\$210.24	60.23%	\$126.63	\$336.87
Enf Supervisor (NZB)	2	\$26.28	\$52.56	68.75%	\$18.07	\$44.35
Enf Analyst (MDO)	1.25	\$21.41	\$26.76	68.75%	\$18.40	\$45.16
Enf Analyst (MDO)	1	\$22.27	\$22.27	60.23%	\$13.41	\$35.68
Enf Manager (AM)	0.75	\$35.46	\$26.60	68.75%	\$18.29	\$44.89
Enf Manager (AM)	1	\$36.88	\$36.88	60.23%	\$22.21	\$59.09
Enf Administrator (CJC)	0.25	\$38.99	\$9.75	70.91%	\$6.91	\$16.66
Enf Administrator (CJC)	1	\$40.55	\$40.55	60.23%	\$24.42	\$64.97
Asst Secretary (LI)	1	\$49.04	\$49.04	70.91%	\$34.77	\$83.81
Asst Secretary (LI)	1	\$49.04	\$49.04	60.23%	\$29.54	\$78.58
Legal Division						
Enf Attorney	1	\$35.00	\$35.00	70.91%	\$24.82	\$59.82
Enf Attorney	1	\$36.40	\$36.40	60.23%	\$21.92	\$58.32
Total Enforcement Costs:						\$2,738.27

Direct Cost (D) = No. Hours (B) X Rate (C)

Indirect Cost (F) = Direct Cost (D) X Approved Federal Rate (E)

Subtotal (G) = Direct Cost (D) + Indirect Cost (F)

Approved Federal Rate Effective July 1, 2015-June 30, 2016: 68.75%

Approved Federal Rate Effective July 1, 2016-June 30, 2017: 70.91%

Approved Federal Rate Effective July 1, 2017-June 30, 2018: 78.24%

Approved Federal Rate Effective July 1, 2018-June 30, 2019: 60.23%

Note: Approved Federal Rate for the corresponding period when costs were incurred is used.

Enforcement Tracking #: WE-P-18-00949

AI #: 17609

Page 11 of 11

FINAL PENALTY CALCULATION

The values for each penalty amount are added to determine a **Penalty Subtotal (Ps)**.

$$\begin{aligned} P_s &= P_1 + P_2 + P_3 \dots \\ P_s &= \$700 + \$1,800 + \$600 + \$10,400 \\ P_s &= \$13,500 \end{aligned}$$

Response Costs (Rc) are then added to the penalty subtotal (Ps) to determine the total penalty amount (Pt).

$$R_c = \underline{\$2,738.27}$$

Penalty Total = Penalty Subtotal + Response Costs

$$(P_t) = P_s + R_c$$

$$(P_t) = \$13,500 + \$2,738.27$$

Penalty Total = \$16,238.27