

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TA OPERATING LLC

AI # 3234

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

* Settlement Tracking No.
* SA-WE-22-0018
*
* Enforcement Tracking No.
* WE-CN-17-00355
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SETTLEMENT

The following Settlement is hereby agreed to between TA Operating 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 truck stop located in Lafayette, Lafayette Parish, Louisiana (“the Facility”).

II

On October 6, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-17-00355 (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 LA0109941. Specifically, a review of Discharge Monitoring Reports (DMRs) for April 2017 through December 2021, revealed that the Respondent reported exceedances of permit effluent limitations for COD and oil & grease:

Date	Parameter	Permit Limit	Sample Value
4/30/2017	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	214 mg/L
5/31/2017	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	141 mg/L
09/30/2017	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	239 mg/L
09/30/2017	Oil & grease Daily Maximum	15 mg/L	18.3 mg/L
03/31/2018	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	265 mg/L
04/30/2020	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	740 mg/L
04/30/2020	Oil & Grease Daily Maximum	15 mg/L	17.1 mg/L
08/31/2020	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	283 mg/L
11/30/2020	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	970 mg/L
11/30/2020	Oil & Grease Daily Maximum	15 mg/L	21.6 mg/L
03/31/2021	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	225 mg/L
09/30/2021	Oil & Grease Daily Maximum	15 mg/L	20.2 mg/L
10/31/2021	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	715 mg/L
11/30/2021	Chemical Oxygen Demand [COD] Daily Maximum	125 mg/L	248 mg/L
11/30/2021	Oil & Grease Daily Maximum	15 mg/L	39 mg/L

The failure to comply is in violation of LPDES Permit LA0109941 (prior to December 1, 2017: (Effluent Limitations and Monitoring Requirements, page 1 of 2 and Standard Conditions for LPDES Permits, Section A.2; beginning December 1, 2017: Permit Requirements, Effluent Limitations and Monitoring Requirements, page 1 of 5 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

The Respondent failed to comply with LPDES permit LAG830316. Specifically, a review of Discharge Monitoring Reports (DMRs) from March 2018 through September 2020, revealed that the Respondent reported exceedances of permit effluent limitations for TOC and total lead:

Date	Parameter	Permit Limit	Sample Value
8/31/2018	TOC	50 mg/L	58.7 ppm
6/30/2019	TOC	50 mg/L	62 ppm
9/30/2019	Lead, total	50 µg/L	568 ppb

The failure to comply is in violation of LPDES Permit LAG830316 (Part I, Section B, page 8 of

12 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

An inspection conducted on or about December 8, 2021, revealed that the Respondent failed to comply with LPDES permit LA0109941. Specifically, the Storm Water Pollution Prevention Plan (SWPPP) did not reflect current personnel. In addition, the Respondent could not provide annual inspection reports at the time of inspection. The failure to comply is in violation of LPDES Permit LA0109941 (Permit Requirements, Narrative Requirements, N-8 & N-19, pages 4 & 5 of 5 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A. The Respondent submitted an updated SWPPP and the 2021 annual inspection report on or about December 29, 2021.

III

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Nine Hundred Sixty-Two and 90/100 Dollars (\$962.90) 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 Lafayette Parish, Louisiana. The advertisement, in

form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

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

XI

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

XII

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

TA OPERATING LLC

BY: [Signature]
(Signature)

Rob Porges

[Signature]
(Printed)
Director of Environmental Services

TITLE: TA Operating LLC

THUS DONE AND SIGNED in duplicate original before me this 20 day of October, 20 22, at TA Operating LLC.

[Signature]
NOTARY PUBLIC (ID # _____)



Ramonita Agosto
Notary Public
In and For the State of Ohio
Recorded in Lorain County
My Commission Expires
July 30, 2024

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

BY: [Signature]
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 6th day of February, 20 23, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 66881)

Jay L. Glorioso
(stamped or printed)

Approved: [Signature]
Celena J. Cage, Assistant Secretary

	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 Jessie Canerday at (225) 219-3814 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. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.


CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Jessie Canerday	Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-17-00355 Agency Interest No. 3234
Water Permits Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

- To appeal the CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY.
- To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified.
 - Before requesting closure of the COMPLIANCE ORDER portion, please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.
- To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
 - The Department assesses civil penalties based on LAC 33: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.
 - 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


Date: 10-6-17

Office of Environmental Compliance

cc: TravelCenters of America
Attn: Kelly Gelske
24601 Center Ridge Rd.
Westlake, OH 44145

Attachment(s)

- Request to Close
- NetDMR Flyer
- Settlement Agreements 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-17-00355	Contact Name	Jessie Canerday	
Agency Interest (AI) No.	3234	Contact Phone No.	(225) 219-3814	
Alternate ID No.	LA0109941			
Respondent:	TA Operating LLC	Facility Name:	Lafayette Travel Center	
	c/o Corporation Service Company	Physical Location:	1701 North University Ave.	
	Agent for Service of Process			
	501 Louisiana Avenue	City, State, Zip:	Lafayette, Louisiana 70507	
	Baton Rouge, LA 70802	Parish:	Lafayette	
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 Paragraphs III and IV of the "Order" portion of the COMPLIANCE ORDER.				
Submitted DMRs and associated reports electronically using NetDMR in accordance with Paragraph V of the "Order" portion of the COMPLIANCE ORDER.				
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:				
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart 1.Chapter 7.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-17-00355), 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-17-00355), 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-17-00355) 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.



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.



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
MAJOR	\$32,500	\$20,000	\$15,000
	to \$20,000	to \$15,000	to \$11,000
MODERATE	\$11,000	\$8,000	\$5,000
	to \$8,000	to \$5,000	to \$3,000
MINOR	\$3,000	\$1,500	\$500
	to \$1,500	to \$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.

