

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**REP OF B&B LLC**

**AI # 195920**

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

\* **Settlement Tracking No.**  
\* **SA-WE-23-0072**  
\*  
\* **Enforcement Tracking No.**  
\* **WE-CN-21-00742A**  
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**SETTLEMENT AGREEMENT**

The following Settlement Agreement is hereby agreed to between REP of B&B 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 owned and/or operated a food service facility with a sanitary wastewater treatment plant located in Matthews, Lafourche Parish, Louisiana (“the Facility”).

**II**

On May 24, 2022, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-21-00742A (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 SEVEN THOUSAND THIRTY-THREE AND 75/100 DOLLARS (\$7,033.75), of which Two Thousand One Hundred Eighty-Three and 72/100 Dollars (\$2,183.72) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 Amended Consolidated Compliance Order & Notice of Potential Penalty and this Settlement Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Lafourche Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement 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 attached hereto.

## XI

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

## 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.

REP OF B&B LLC

BY: [Signature]  
(Signature)

TED KERGAN  
(Printed)

TITLE: MEMBER

THUS DONE AND SIGNED in duplicate original before me this 21st day of December, 2023, at Lafayette, La.

Doris Ann Reiners  
NOTARY PUBLIC (ID # 181)  
DORIS Ann Reiners

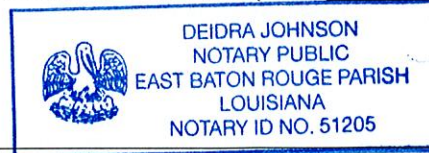
\_\_\_\_\_  
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: [Signature]  
Aurelia S. Ciavonetto, Secretary


THUS DONE AND SIGNED in duplicate original before me this 3rd day of April, 2024, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 51205)



\_\_\_\_\_  
(stamped or printed)

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

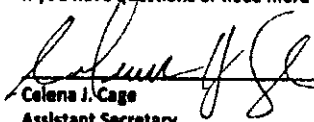
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE <b>AMENDED</b> ENFORCEMENT DIVISION <b>CONSOLIDATED COMPLIANCE ORDER &amp;</b> POST OFFICE BOX 4312 <b>NOTICE OF POTENTIAL PENALTY</b> BATON ROUGE, LOUISIANA 70821-4312				
<b>Enforcement Tracking No.</b>	WE-CN-21-00742A	<b>Certified Mail No.</b>	7018 1130 0001 5655 0379	
<b>Agency Interest (AI) No.</b>	195920	<b>Contact Name</b>	Jordan Landry	
<b>Alternate ID No.</b>	LAG535032	<b>Contact Phone No.</b>	(225) 219-3078	
<b>Respondent:</b>	<b>REP of B&amp;B LLC</b>	<b>Facility Name:</b>	Sonic	
	c/o Theodore W Kergan II	<b>Physical Location:</b>	4740 LA Hwy. 1	
	Agent for Service of Process	<b>City, State, Zip:</b>	Mathews, LA 70394	
	1021 Camellia Blvd Lafayette, LA 70598	<b>Parish:</b>	Lafourche Parish	
This <b>AMENDED CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> 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). This <b>AMENDED CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> replaces <b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-21-00742</b> issued on December 30, 2021, in its entirety.				
<b>FINDINGS OF FACT</b>				
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.				
<b>I.</b>	The Respondent owns and/or operates a food service facility with a sanitary wastewater treatment plant located at 4740 Hwy. 1, in Mathews, Lafourche Parish, Louisiana. The Respondent was granted authorization under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG535032 effective on April 16, 2015 and expiration date of November 30, 2017. LPDES Permit LAG535032 was administratively continued and the Respondent was reissued coverage on February 21, 2018. LPDES Permit LAG535032 will expire on November 30, 2022. Under the terms and conditions of LPDES General Permit LAG535032, the Respondent is permitted to discharge treated sanitary wastewater to Forty Arpent Canal via local drainage thence into Barataria Basin, all waters of the state.  Effective January 1, 2013, the Respondent was automatically covered under the Louisiana Sewage Sludge and Biosolids Use or Disposal General Permit LAJ660000.			
	<b>Date of Violation</b>	<b>Description of Violation</b>		
<b>II.</b>	Inspection(s) 06/27/2021 & 08/13/2021	The Respondent failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, at the time of the June 27, 2021 and August 13, 2021 inspections the following observations were made: A. Soap foam in the aeration basin B. Solids and foam over gray water in the chlorine contact chamber C. No chlorine tablets present D. Biosolids within the storm drain/receiving stream  The failure to properly operate and maintain systems of treatment and control is in violation of (LAG535032 (Part III, Section B) La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E).		
<b>III.</b>	File Review 10/19/2021	The Respondent caused and/or allowed the unauthorized discharge of wastewater into waters of the state from a location not authorized by LPDES Permit LAG535032. Specifically, an Incident Report #198285 on August 16, 2020 noted an overflow of sewage to waters of the state. The unauthorized discharge of wastewater to waters of the state is in violation of La. R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.D. The failure to properly operate and maintain systems of treatment and control is in violation of (LAG535032 (Part III, Section B) La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E).		
<b>IV.</b>	Inspection(s) & File Review 06/27/2021, 08/13/2021, & 10/19/2021	The Respondent failed to comply with Sewage Sludge and Biosolids Use or Disposal General Permit LAJ660000. Specifically, the Respondent failed to submit the annual Sewage Sludge and Biosolids Use or Disposal Reporting Form for 2019 and 2021. (LAJ660000 (Part II, Section C and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.7313.A.2)		
<b>V.</b>	Inspection(s) & File Review 11/16/2021 & 04/18/2022	The Respondent failed to comply with LPDES Permit LAG535032. Specifically, at an inspection conducted on or about November 16, 2021, the inspector observed a hose pipe affixed to the grating above the chlorine contact chamber spraying continuously into the chamber. LPDES Permit LAG535032 states a permittee shall not achieve any effluent concentration by dilution unless specifically authorized in the permit. (LAG535032 (Standard Conditions, Part III, Sections A.2 & A.13), La. R.S. 30:2076(A)(3), LAC 33:IX.2701.A)		
<b>ORDER</b>				
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:				
<b>I.</b>	To take, immediately upon receipt of this <b>COMPLIANCE ORDER</b> , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, <b>but not be limited to</b> ; correcting <b>all</b> of the violations described in the "Findings of Fact" portion.			
<b>II.</b>	To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , 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 <b>COMPLIANCE ORDER</b> . This report and all other reports or information required to be submitted to the Enforcement Division by this <b>COMPLIANCE ORDER</b> shall be submitted to the Department at the address specified in this document.			
<b>III.</b>	To immediately cease, upon receipt of this <b>COMPLIANCE ORDER</b> , any unauthorized discharges from the Respondent's facility to waters of the state.			



<b>IV.</b>	To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , the Sewage Sludge and Biosolids Use or Disposal Reporting Form for 2019 and 2021.
<b>RIGHT TO APPEAL</b>	
<b>I.</b>	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this <b>COMPLIANCE ORDER</b> . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> .
<b>II.</b>	The request for an adjudicatory hearing shall specify the provisions of the <b>COMPLIANCE ORDER</b> 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.
<b>III.</b>	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 <b>COMPLIANCE ORDER</b> 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's (DAL) Procedural Rules. The Department may amend or supplement this <b>COMPLIANCE ORDER</b> prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
<b>IV.</b>	This <b>COMPLIANCE ORDER</b> 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.
<b>V.</b>	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 <b>COMPLIANCE ORDER</b> 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 <b>COMPLIANCE ORDER</b> becoming a permanent part of its compliance history.
<b>VI.</b>	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 <b>COMPLIANCE ORDER</b> 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.
<b>VII.</b>	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.
<b>NOTICE OF POTENTIAL PENALTY</b>	
<b>I.</b>	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.
<b>II.</b>	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 «ES_Name» at «ES_Ph.» within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .
<b>III.</b>	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 <b>NOTICE OF POTENTIAL PENALTY</b> . 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.
<b>IV.</b>	This <b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> is effective upon receipt.
<b>CONTACTS AND SUBMITTAL OF INFORMATION</b>	
<b>Enforcement Division:</b> Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Jordan Landry	<b>Hearing Requests:</b> 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-21-00742A Agency Interest No. 195920
<b>Water Permits Division (if necessary):</b> Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	<b>Physical Address (if hand delivered):</b> Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
<b>HOW TO REQUEST CLOSURE OF THIS AMENDED CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b>	
<ul style="list-style-type: none"> <li>To appeal the <b>AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY</b>, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this <b>AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY</b>.</li> <li>To request closure of the <b>COMPLIANCE ORDER</b> portion, the Respondent must demonstrate compliance with the "Order" portion of this <b>AMENDED COMPLIANCE ORDER</b> by completing the attached "<b>AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE</b>" form and returning it to the address specified.</li> </ul>	

- o Before requesting closure of this COMPLIANCE ORDER portion, please contact the Financial Services Division at 225-219-3865 or email them at [\\_DEQ-WWWFinancialServices@la.gov](mailto:_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.
  - o The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7.
  - o 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.
  - o The settlement offer amount may be entered on the attached "AMENDED CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent must include a justification of the offer.
  - o **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.
  - o 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](mailto:_DEQ-WWWFinancialServices@la.gov) to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Jordan Landry at (225) 219-3078 or [jordan.landry@la.gov](mailto:jordan.landry@la.gov).

  
Celena J. Cage  
Assistant Secretary  
Office of Environmental Compliance

Date: May 29, 2022

Attachment(s)

- Request to Close



OFFICE OF ENVIRONMENTAL COMPLIANCE  
 ENFORCEMENT DIVISION  
 POST OFFICE BOX 4312  
 BATON ROUGE, LOUISIANA 70821-4312

**AMENDED  
 CONSOLIDATED COMPLIANCE ORDER &  
 NOTICE OF POTENTIAL PENALTY  
 REQUEST TO CLOSE**



Enforcement Tracking No.	WE-CN-21-00742A	Contact Name	Jordan Landry
Agency Interest (AI) No.	195920	Contact Phone No.	(225) 219-3078
Alternate ID No.	LAG535032		
Respondent:	REP of B&B LLC	Facility Name:	Sonic
	c/o Theodore W Kergan II	Physical Location:	4740 LA Hwy. 1
	Agent for Service of Process		
	1021 Camellia Blvd	City, State, Zip:	Mathews, LA 70394
	Lafayette, LA 70598	Parish:	Lafourche Parish

**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 AMENDED 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)*

<input type="checkbox"/>	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.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-21-00742A), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-21-00742A), 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"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>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.</b></li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-21-00742A) 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: Jordan Landry

If you have questions or need more information, you may contact Jordan Landry at (225) 219-3078 or jordan.landry@la.gov.