

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**BRIDWELL OIL MANAGEMENT, L.L.C.**

**AI # 160534, 155249**

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

\* **Settlement Tracking No.**  
\* **SA-MM-23-0024**  
\*  
\* **Enforcement Tracking Nos.**  
\* **MM-P-18-00481**  
\* **MM-P-18-00481A**  
\*  
\*  
\* **Docket Nos. 2021-5582-DEQ**  
\* **2022-5532-DEQ**

**SETTLEMENT**

The following Settlement is hereby agreed to between Bridwell Oil Management, L.L.C. (“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 sites located in DeRidder, Beauregard Parish, Louisiana (“the Sites”).

**II**

On May 20, 2020, the Department issued to Respondent a Penalty Assessment, Enforcement Tracking No. MM-P-18-00481 (Exhibit 1).

On May 5, 2022, the Department issued to Respondent an Amended Penalty Assessment, Enforcement Tracking No. MM-P-18-00481A (Exhibit 2).

**III**

In response to the Penalty Assessment, Respondent made a timely request for a hearing. In response to the Amended 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 FIFTEEN THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$15,700.00), of which Four Thousand Four Hundred Twenty-Seven and 84/100 Dollars (\$4,427.84) 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, Amended 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 Beauregard 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 attached hereto.

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.

**BRIDWELL OIL MANAGEMENT, L.L.C.**

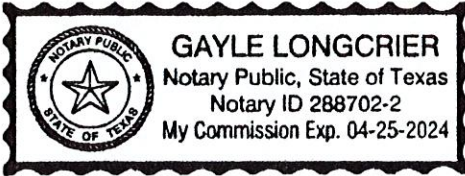
BY: *Steve Ginnings*  
(Signature)

Steve Ginnings

(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 22nd day of August, 20 23, at Wichita Falls, Texas.



*Gayle Longcrier*  
NOTARY PUBLIC (ID # 288702-2)

Gayle Longcrier

(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

BY: *Aurelia S. Giacometto*  
Aurelia S. Giacometto, Secretary

THUS DONE AND SIGNED in duplicate original before me this 19th day of March, 20 24, at Baton Rouge, Louisiana.

*Jill C. Clark*  
NOTARY PUBLIC (ID # 91143)  
La. Bar No. 33050



(stamped or printed)

Approved: *Celena J. Cage*  
Celena J. Cage, Assistant Secretary



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

May 20, 2020

CERTIFIED MAIL (7017 0530 0000 5978 9661)  
RETURN RECEIPT REQUESTED

**BRIDWELL OIL MANAGEMENT, L.L.C.**  
c/o Jim Diehl  
Agent for Service of Process  
233 La Rue France  
Lafayette, Louisiana 70508

**RE: PENALTY ASSESSMENT  
ENFORCEMENT TRACKING NO. MM-P-18-00481  
AGENCY INTEREST NOS. 160534 & 155249**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **PENALTY ASSESSMENT** is hereby served on **BRIDWELL OIL MANAGEMENT, L.L.C.** and **BRIDWELL OIL COMPANY (RESPONDENTS)** for the violations described therein.

Any questions concerning this action should be directed to Richard Ober, Jr. at (225) 219-3135.

Sincerely

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage  
Administrator  
Enforcement Division

CJC/RO/ro  
Alt ID No. LAR05P794 & LAR05P123  
Attachment

c: Mr. Steve Ginnings, Manager  
Bridwell Oil Management, L.L.C.  
810 8<sup>th</sup> Street  
Wichita Falls, TX 76301



**STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE**

<b>IN THE MATTER OF</b>	*	
	*	
<b>BRIDWELL OIL MANAGEMENT, L.L.C.</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
<b>BRIDWELL OIL COMPANY</b>	*	
<b>BEAUREGARD PARISH</b>	*	<b>MM-P-18-00481</b>
<b>ALT ID NOS. LAR05P794 &amp; LAR05P123</b>	*	
	*	<b>AGENCY INTEREST NOS.</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	<b>160534 &amp; 155249</b>
<b>ENVIRONMENTAL QUALITY ACT,</b>	*	
<b>La. R.S. 30:2001, ET SEQ.</b>	*	

**PENALTY ASSESSMENT**

The following **PENALTY ASSESSMENT** is issued to **BRIDWELL OIL MANAGEMENT, L.L.C.** and **BRIDWELL OIL COMPANY (RESPONDENTS)** 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 the Arceneaux SWD Battery – Boneset Creek Field (the Site) (Agency Interest No. 160534) located at 3 Pines Church Road in DeRidder, Beauregard Parish, Louisiana. The Respondent was granted coverage under LPDES Storm Water Multi-Sector General Permit for Industrial Activities (MSGP) LAR050000, and was specifically assigned number LAR05P123. LPDES MSGP LAR05P123 was issued to the Respondent on or about June 16, 2009, with an expiration date of April 30, 2011. LPDES MSGP LAR05P123 was administratively continued until it was reissued with an effective date of May 4, 2011, and an expiration date of May 3, 2016. LPDES General Permit LAR05P123 was administratively continued until the Respondent was reauthorized on September 6, 2016, under LPDES General

Permit LAR050000, which was reissued on May 9, 2016. Under the terms and conditions of LPDES MSGP LAR05P123, the Respondent is authorized to discharge storm water associated with industrial activities into waters of the state. The storm water discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River.

II.

On or about March 10, 2014, March 13, 2014, March 18, 2014, May 2, 2014, and May 15, 2014, inspections were conducted by representatives of the Department in response to a release that occurred on February 22, 2014, which revealed the following violations:

- A. The Respondent had an unauthorized discharge of oil and produced water on or about February 22, 2014, to waters of the state. Specifically, the Respondent reported that approximately five (5) barrels of crude oil was released due to a plunger line that busted. The inspections also revealed that three (3) water tanks appeared to have overflowed. During the inspections, the Respondent stated that the tank overflow occurred on the same day as the plunger incident on February 22, 2014. The overflow was caused by a vacuum truck taking the oil vacuumed from the release and putting it back into the tanks. The three (3) tanks were overfilled and the proper valves were not secured causing the release outside of the secondary containment. The inspections revealed heavy stains visible outside of the secondary containment on the south side of the property that continued in the west ditch along the road. There were visible signs that oil flowed off the property into the roadside ditch where emulsified crude oil and oil stained vegetation was observed in the roadside ditch which flows to a main drainage lateral which flows to Tubes Creek, waters of the state. Each discharge of oily fluids and produced water is a violation of La. R.S. 30:2076(A)(3), La. R.S. 33:IX:1701.B, and LAC 33:IX.708.C.2.a.ii.
- B. The Respondent failed to immediately initiate a remedial response by removing discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. Specifically, the inspections revealed that the contaminated soil had not been properly remediated. The inspections revealed heavy stains visible



outside of the secondary containment on the south side of the property that continued in the west ditch along the road. There were visible signs that oil flowed off the property into the roadside ditch where emulsified crude oil and oil stained vegetation was observed in the roadside ditch. The failure to immediately initiate a remedial response to the unauthorized discharge is a violation of LAC 33:IX.708.C.1.b.iv.

- C. The Respondent failed to timely submit the written report of the unauthorized discharge of any material that exceeds the reportable quantity. Specifically, the Respondent submitted a report dated March 11, 2014, which was received by the Department on March 12, 2014, for the unauthorized discharge that occurred on February 22, 2014, of approximately five (5) barrels of crude oil. The report was not submitted within seven (7) calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919 nor did it provide all of the information specified in LAC 33:I.3925.B. Specifically, the report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. The failure to timely provide the written report of the unauthorized discharge of any material that exceeds the reportable quantity is a violation of LAC 33:I.3925.A and La R.S. 30:2076(A)(3). Each failure to include all required elements in the written report is a violation of LAC 33:I.3925.B.14 and La. R.S. 30:2076(A)(3).
- D. The Respondent failed to develop an adequate Spill Prevention and Control (SPC) plan that meets the requirements of LAC 33:IX.907. Specifically, the Respondent provided a Spill Prevention, Control and Countermeasure Plan (SPCC) required by 40 CFR 112 during the timeframe of the inspections. The SPCC plan was reviewed. The review revealed that the SPCC did not contain all of the information required by LAC 33:IX.907 for an SPC plan for the Arceneaux SWD Battery. The Respondent's site has three (3) 400 barrel saltwater storage tanks. The SPC regulations in LAC 33:IX.Chapter 9 apply to produced water as specified in LAC 33:IX.903.A.1. The failure to develop an adequate SPC plan is a violation of LAC 33:IX.907 and La. R.S. 30:2076(A)(3).

- E. The Respondent failed to implement good housekeeping measures and/or perform proper maintenance at the Site in accordance with LPDES MSGP Permit LAR05P123. Specifically, the inspection revealed filters from field equipment on the ground near the heater treater; multiple pipes leaking, including the top of the heater treater which was leaking liquid and gas product; valves that were not locked or capped; and the overflow box for the crude oil load out contained oil product inside of it and a stain in front of the box measuring approximately fifteen feet by twenty-five feet. Each failure to implement good housekeeping measures is a violation of LPDES MSGP Permit LAR05P123 (Parts 4.2.9.2, 4.2.9.3 and 9.1.1), La. R.S. 30:2076(A)(3), LAC 33:III.501.A, and LAC 33:IX.2701.A.

### III.

On December 4, 2014, the Department issued a Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. MM-CN-14-00620 to the Respondent.

### IV.

The Respondent owns and/or operates the SUB Tank Battery – Boneset Creek Field (the Site) (Agency Interest No. 155249) located at 3 Pines Church Road in DeRidder, Beauregard Parish, Louisiana. The Respondent currently does not have coverage under an LPDES permit. On or about July 18, 2014, the Department received, from the Respondent, a LPDES notice of intent (NOI) for coverage under a LPDES Storm Water Multi-Sector General Permit for Industrial Activities (MSGP) LAR050000. The Respondent was granted authorization under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAR050000 effective September 29, 2014, and specifically assigned LPDES permit number LAR05P794. LPDES General Permit LAR050000 was reissued on May 9, 2016, and the Respondent was reauthorized under this permit effective on September 6, 2016. The stormwater discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River.

### V.

On or about March 13, 2014, an inspection was conducted by the Department in response to an unauthorized discharge that was discovered by representatives of the Department. Subsequent follow-up inspections were conducted on March 18, 2014, May 2, 2014, and May 15,

2014. A file review was also conducted on or about September 10, 2014. The inspections and file review revealed the following violations:

- A. The inspection on March 13, 2014, revealed that the Respondent caused and or allowed the discharge of oily fluids to waters of the state. The inspection noted that that approximately one (1) to three (3) barrels of crude oil had been discharged and that there were visual signs that the crude oil flowed into the road side ditch as described in paragraph II.A of the Findings of Fact above. The road side ditch flows to waters of the state. According to the Respondent's written notification report dated July 18, 2014, the discharge occurred on or about March 6, 2014, and was the result of an oil transport driver pumping air into the tank and causing oil to overflow the top hatch of the tank. Each discharge of oily fluids is a violation of LAC 33:IX.1701.B and La. R.S. 30:2076(A)(3).
- B. The inspection on March 13, 2014, revealed that the Respondent failed to timely notify the Department of the unauthorized discharge that occurred on March 6, 2014. Although discovered during the inspection on March 13, 2014, the release was not reported to the Department until March 18, 2014. The Respondent's failure to notify the Department of an unauthorized discharge that exceeds a reportable quantity, but does not cause an emergency condition within 24 hours is a violation of LAC 33:I.3917.A and La R.S. 30:2076(A)(3).
- C. The file review conducted on September 10, 2014, of the unauthorized discharge that occurred on March 6, 2014, revealed that the Respondent failed to timely submit the written report of the unauthorized discharge that occurred on March 6, 2014. The Respondent submitted a report dated July 18, 2014, which was received by the Department on or about July 28, 2014, for the unauthorized discharge that occurred on March 6, 2014. The report was not submitted within seven (7) calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919 nor did it provide all of the information specified in LAC 33:I.3925.B. Specifically, the report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. The failure to timely

- provide the written report of the unauthorized discharge of any material that exceeds the reportable quantity is a violation of LAC 33:I.3925.A and La R.S. 30:2076(A)(3). Each failure to include all required elements in the written report is a violation of LAC 33:I.3925.B.14 and La. R.S. 30:2076(A)(3).
- D. The inspections on March 13, 2014, March 18, 2014 and May 2, 2014, revealed that the Respondent failed to immediately initiate a remedial response to the March 6, 2014, unauthorized discharge. Specifically, the inspection on March 13, 2014, revealed that the tank battery had heavy stains inside the secondary containment, in the road side ditch, and in front of the secondary containment discharge valve. Recoverable crude oil was inside and outside of the secondary containment. There were visual signs of oil being released from the secondary containment by a valve being opened on the west side of the secondary containment. The valve leads to the road side ditch that flows to waters of the State. On March 18, 2014, representatives of the Department met with a representative of the Respondent to discuss the inspection findings. The representatives of the Department spoke to the representative of the Respondent about the recovery and disposal of product and contaminated soil at the Site. The Respondent's representative was also instructed to contact the Department before any placement of clean soil in remediated areas was done. On May 2, 2014, a follow-up inspection of the Site revealed (1) an oil contaminated area approximately 20 by 50 yards that had been covered in soil which made it impossible to verify if the remediation was completed on the east side of the secondary containment, (2) the oil catch box contained recoverable product inside, and (3) recoverable emulsified oil was present inside the secondary containment. The failure to immediately initiate a remedial response to the unauthorized discharge is a violation of LAC 33:IX.708.C.1.b.iv. and La. R.S. 30:2076(A)(3).
- E. The inspection on May 15, 2014, revealed that the Respondent failed to develop and implement an adequate Spill Prevention and Control (SPC) plan that meets the requirements of LAC 33:IX.907. The Respondent provided a Spill Prevention, Control and Countermeasure Plan (SPCC) required by 40 CFR 112

which contains several of the Bridwell Oil Company fields. The SPCC plan can also serve as the SPC plan if all requirements for a complete SPC plan, as specified in LAC 33:IX.907, are incorporated into the SPCC plan. The SPCC plan was reviewed and was determined to be inadequate in regard to the requirements of LAC 33:IX.907. Specifically, the Respondent failed to correctly identify the substance being stored in the northeast tank. The Respondent's representative stated that the oil release was from the northeast tank which had visual signs of the oil release. The SPCC plan indicated that the northeast tank only contained water. The failure to develop and implement an adequate SPC plan is a violation of LAC 33:IX.907.B.7 and La. R.S. 30:2076(A)(3).

VI.

On January 8, 2015, the Department issued a Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. MM-CN-14-00621 to the Respondent.

VII.

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

VIII.

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**

IX.

A penalty in the amount of **TWENTY-FIVE THOUSAND FIVE HUNDRED THIRTY-TWO AND 78/100 DOLLARS (\$25,532.78)** 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. MM-P-18-00481**  
**Agency Interest Nos. 160534 & 155249**

**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. MM-P-18-00481**  
**Agency Interest Nos. 160534 & 155249**

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 20th day of May, 2020.



\_\_\_\_\_  
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: Richard Ober, Jr.



## 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

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**Respondent: Bridwell Oil Management, L.L.C.**

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**Enforcement Tracking Number: MM-P-18-00481**

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**Penalty Amount: \$25,532.78**

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**AI Numbers: 160534 & 155249**

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**Alternate ID Numbers: LAR05P123 & LAR05P794**

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**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**

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Enforcement Tracking #: MM-P-18-00481

AI #s: 160534 & 155249

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## PENALTY CALCULATION WORKSHEET

**Penalty Event #1 – Paragraph II.A** - The Respondent had an unauthorized discharge of oil and produced water on or about February 22, 2014, to waters of the state. Specifically, the Respondent reported that approximately five (5) barrels of crude oil was released due to a plunger line that busted. The inspections also revealed that three (3) water tanks appeared to have overflowed. During the inspections, the Respondent stated that the tank overflow occurred on the same day as the plunger incident on February 22, 2014. The overflow was caused by a vacuum truck taking the oil vacuumed from the release and putting it back into the tanks. The three (3) tanks were overfilled and the proper valves were not secured causing the release outside of the secondary containment. The inspections revealed heavy stains visible outside of the secondary containment on the south side of the property that continued in the west ditch along the road. There were visible signs that oil flowed off the property into the roadside ditch where emulsified crude oil and oil stained vegetation was observed in the roadside ditch which flows to a main drainage lateral which flows to Tubes Creek, waters of the state. Each discharge of oily fluids and produced water is a violation of La. R.S. 30:2076(A)(3), La. R.S. 33:IX.1701.B, and LAC 33:IX.708.C.2.a.ii.

### Violation Specific Factors

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

Justification: The degree of risk to human health or property is considered to be Minor because no measurable harm or substantial risk to the environment or public health would have been expected to have occurred. Approximately five (5) barrels of crude oil was released, and the discharge was cleaned up. The storm water discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River (subsegment # 030506). Subsegment # 030506 fully supports the designated uses for secondary contact recreation (boating) and primary contact recreation (swimming). However, it does not fully support the designated use for fish and wildlife propagation (fishing). The suspected causes of impairment are dissolved oxygen possibly associated with livestock, natural sources, and silviculture activities. The inspection noted that there were visible signs that oil flowed off the property as verified by observation of emulsified crude oil and oil stained vegetation in the roadside ditch.

Nature and Gravity of the Violation: Moderate

Justification: Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. According to the Respondent approximately five (5) barrels of crude oil was released due to a plunger line that busted. During the inspections, the Respondent stated that tank overflows also occurred on the same day as the plunger incident on February 22, 2014. The overflow was caused by a vacuum truck taking the oil vacuumed from the release and putting it back into the tanks. The three (3) tanks were overfilled, and the proper valves were not secured causing the release outside of the secondary containment.

Enforcement Tracking #: MM-P-18-00481

AI #s: 160534 & 155249

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### 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 = +20%

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This was not a violation cited in a previously issued enforcement action.

2. The gross revenues generated by the Respondent.

Adjustment = +10%

Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620 issued to the Respondent on December 4, 2014, 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, the Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.

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

Adjustment = +10%

Justification: The Respondent is culpable for the unauthorized discharge. A plunger line busted resulting in the release of approximately five (5) barrels of crude oil. The inspections also revealed that three (3) water tanks appeared to have overflowed. During the inspections, the Respondent stated that the tank overflow occurred on the same day as the plunger incident on February 22, 2014. The overflow was caused by a vacuum truck taking the oil vacuumed from the release and putting it back into the tanks. The three (3) tanks were overfilled, and the proper valves were not secured causing the release outside of the secondary containment. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders. In a letter from the Respondent dated January 6, 2015, it was noted that once discovered, the release was contained with absorbent booms to prevent additional migration. The discharged fluids were then recovered by vacuum trucks and returned to the on-site holding tanks. Impacted soils were mixed and aerated using a bulldozer to the satisfaction of the landowner. Additionally, the Respondent noted that the malfunctioning equipment was repaired and an automatic notification system was installed on the pump unit to minimize the effects of a similar malfunction event in the future.

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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 = +10%

Justification: The Respondent failed to immediately make a reasonable attempt to mitigate the damages as revealed by the inspections which noted that contaminated soil had not been properly remediated. According to the letter from the Respondent dated January 6, 2015, the discharged fluids were recovered by vacuum trucks and returned to the on-site holding tanks. Impacted soils were mixed and aerated using a bulldozer to the satisfaction of the landowner.

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 unauthorized discharge was reported to the Department on February 22, 2014, in accordance with the regulations. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +50%

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$500.00</u>
	Maximum (C) <u>\$1,500.00</u>

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>+50%</u>
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Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C-A])$
	$P = \$500 + (0.50 \times [1,500 - 500])$
	$P = \$1,000.00$

Penalty Amount for Penalty Event # 1 = \$1,000.00

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**Penalty Event #2 – Paragraph II.B** – The Respondent failed to immediately initiate a remedial response by removing discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. Specifically, the inspections revealed that the contaminated soil had not been properly remediated. The inspections revealed heavy stains visible outside of the secondary containment on the south side of the property that continued in the west ditch along the road. There were visible signs that oil flowed off the property into the roadside ditch where emulsified crude oil and oil stained vegetation was observed in the roadside ditch. The failure to immediately initiate a remedial response to the unauthorized discharge is a violation of LAC 33:IX.708.C.1.b.iv.

### **Violation Specific Factors**

Degree of Risk/Impact to Human Health Or Property: Moderate

**Justification:** The degree of risk to human health or property is considered to be Moderate because the failure to timely cleanup and remediate the unauthorized discharge had the potential for measurable detrimental impact on the environment or public health. In accordance with LAC 33:IX.708.C.1.b.iv, a remedial response must be initiated immediately for the unauthorized discharge, which shall include immediate removal of discharged materials and to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. An immediate response did not occur in this case. The inspection noted that there were visible signs that oil flowed off the property as confirmed by the observation of emulsified crude oil and oil stained vegetation in the roadside ditch. This ditch flows to a main drainage lateral which flows to Tubes Creek, waters of the state, which considering the Respondent's delay in cleaning up and remediating the site, could result in the potential for detrimental impact. In this case, the storm water discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River (subsegment # 030506). Subsegment # 030506 fully supports the designated uses for secondary contact recreation (boating) and primary contact recreation (swimming). However, it does not fully support the designated use for fish and wildlife propagation (fishing). The suspected causes of impairment are dissolved oxygen possibly associated with livestock, natural sources, and silviculture activities. The approximately five (5) barrels of crude oil released was eventually cleaned up.

Nature and Gravity of the Violation: Moderate

**Justification:** Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. The unauthorized discharge occurred on February 22, 2014. During the course of the inspections conducted on March 10, 2014, March 13, 2014, and May 2, 2014, the Respondent had failed to immediately initiate a remedial response by removing discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. This was evidenced by the inspections findings that contaminated soil had not been properly remediated. Specifically, during the March 13, 2014, inspection, heavy stains were visible outside of the secondary containment on the south side of the property that continued in the west ditch along the road. There were also visible signs that oil flowed off the property into the roadside ditch where emulsified crude oil and oil stained vegetation

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was observed in the roadside ditch. However, the March 10, 2014, inspection did note that cleaning activities appeared to be taking place, but further cleanup was needed. Adsorbent pads and boom were noted; however, areas of stained soil, standing crude and offsite impact was observed to have occurred to the nearby property on the south side of the location as well as the road side ditch. The Respondent's unauthorized discharge report dated March 11, 2014, noted vacuum trucks were enlisted to remove the standing fluids from the ground and the majority of the oil and water was recovered by the vacuum trucks and returned to the holding area. According to the Respondent, all of the surface remediation was done to the satisfaction of the landowner. The pump was repaired and was to be equipped with an automatic notification system to prevent a similar incident. All fluids and affected lands were remediated.

### 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 = +20%

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This was not a violation cited in a previously issued enforcement action.

2. The gross revenues generated by the Respondent.

Adjustment = +10%

Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620 issued to the Respondent on December 4, 2014, 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, the Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.

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

Adjustment = +20%

Justification: The Respondent is culpable for failing to immediately initiate a remedial response by removing discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. The unauthorized discharge occurred on February 22, 2014. During the course of the inspections conducted on March 10, 2014, March 13, 2014, and May 2, 2014, the

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Respondent had failed to immediately initiate a remedial response by removing discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. This was evidenced by the inspections' findings that contaminated soil had not been properly remediated. Specifically, during the March 13, 2014, inspection, heavy stains were visible outside of the secondary containment on the south side of the property that continued in the west ditch along the road. There were also visible signs that oil flowed off the property into the roadside ditch where emulsified crude oil and oil stained vegetation was observed in the roadside ditch. However, the March 10, 2014, inspection did note that cleaning activities appeared to be taking place, but further cleanup was needed. Adsorbent pads and boom were noted; however, areas of stained soil, standing crude and offsite impact was observed to have occurred to the nearby property on the south side of the location as well as the road side ditch. The Respondent's unauthorized discharge report dated March 11, 2014, noted vacuum trucks were enlisted to remove the standing fluids from the ground and the majority of the oil and water was recovered by the vacuum trucks and returned to the holding area. According to the Respondent, all of the surface remediation was done to the satisfaction of the landowner. The pump was repaired and was to be equipped with an automatic notification system to prevent a similar incident. All fluids and affected lands were remediated. An unauthorized discharge work plan was submitted under cover letter dated January 6, 2015. During an inspection conducted on December 18, 2015, a representative of the Respondent indicated that affected soils were excavated. Soil samples were then taken at the time of the inspection on December 18, 2015, at six (6) locations. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.

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 =           +10%          

Justification: The Respondent failed to immediately mitigate or make a reasonable attempt to mitigate the violations. According to the letter from the Respondent dated January 6, 2015, the discharged fluids were recovered by vacuum trucks and returned to the on-site holding tanks. Impacted soils were mixed and aerated using a bulldozer to the satisfaction of the landowner. During an inspection conducted on December 18, 2015, a representative of the Respondent indicated that affected soils were excavated. Soil samples were then taken at the time of the inspection on December 18, 2015, at six (6) locations. According to the Respondent's January 19, 2016 letter, based on laboratory analysis of samples collected in response to the unauthorized discharge, all analytical results indicated compliance with the Department's RECAP requirements.

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 violation was discovered during inspections conducted on March 10, 2014, March 13, 2014, March 18, 2014 and May 2, 2014, and May 15, 2014. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

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Total Percentage for Violator Specific Adjustment Factors: +60%

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

Minimum (A) \$5,000.00  
Maximum (C) \$8,000.00

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

Sum of %s (B) +60%

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

$P = A + (B \times [C - A])$   
 $P = \$5,000 + (0.60 \times [\$8,000 -$   
 $\$5,000])$   
 $P = \$6,800.00$

Penalty Amount for Penalty Event # 2 = \$6,800.00



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**Penalty Event #3 – Paragraph II.C** The Respondent failed to timely submit the written report of the unauthorized discharge of any material that exceeds the reportable quantity. Specifically, the Respondent submitted a report dated March 11, 2014, which was received by the Department on March 12, 2014, for the unauthorized discharge that occurred on February 22, 2014, of approximately five (5) barrels of crude oil. The report was not submitted within seven (7) calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919 nor did it provide all of the information specified in LAC 33:I.3925.B. Specifically, the report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. The failure to timely provide the written report of the unauthorized discharge of any material that exceeds the reportable quantity is a violation of LAC 33:I.3925.A and La R.S. 30:2076(A)(3). Each failure to include all required elements in the written report is a violation of LAC 33:I.3925.B.14 and La. R.S. 30:2076(A)(3).

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

Justification: The degree of risk to human health or property is considered to be Minor because no measurable harm or substantial risk to human health or the environment would have been expected to have occurred. The failure to timely submit the written report would not have been expected to result in measurable harm or substantial risk to human health or the environment. The failure to include all of the required information on the unauthorized discharge written report is considered administrative in nature.

Nature and Gravity of the Violation: Moderate

Justification: Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. The Respondent was required to submit a written report to the Department within seven (7) calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919. The Respondent notified the Department of the unauthorized discharge on February 22, 2014. The written report should have been submitted by March 1, 2014. The Respondent submitted a report dated March 11, 2014, which was received by the Department on March 12, 2014, for the unauthorized discharge that occurred on February 22, 2014. The written unauthorized discharge report did not provide all of the information specified in LAC 33:I.3925.B. Specifically, the report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. However, this is only one of many elements required to be included in the unauthorized discharge written report.

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### 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 = +20%

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This was not a violation cited in a previously issued enforcement action.

2. The gross revenues generated by the Respondent.

Adjustment = +10%

Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00621 issued to the Respondent on December 4, 2014, 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, the Department obtained gross revenues from the D & B Hoovers database on the Internet site www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.

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

Adjustment = +10%

Justification: The Respondent is culpable for failing to timely submit the written report of the unauthorized discharge that occurred on February 22, 2014, and for failing to include all required elements in the written report. The Department was notified of the unauthorized discharge on February 22, 2014. The written report should have been submitted by March 1, 2014. The Respondent submitted a report dated March 11, 2014, which was received by the Department on March 12, 2014. The report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.

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: The Department is not aware of any damages caused by the violation.

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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 violation was discovered during inspections conducted by the Department on March 10, 2014, March 13, 2014, March 18, 2014, May 2, 2014, and May 15, 2014. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +40%

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

Minimum (A) \$500.00  
Maximum (C) \$1,500.00

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

Sum of %s (B) +40%

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

$P = A + (B \times [C - A])$   
 $P = \$500 + (0.40 \times [\$1,500 - \$500])$   
 $P = \$900.00$

Penalty Amount for Penalty Event # 3 = \$900.00

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**Penalty Event #4 – Paragraph II.D** – The Respondent failed to develop an adequate Spill Prevention and Control (SPC) plan that meets the requirements of LAC 33:IX.907. Specifically, the Respondent provided a Spill Prevention, Control and Countermeasure Plan (SPCC) required by 40 CFR 112 during the timeframe of the inspections. The SPCC plan was reviewed. The review revealed that the SPCC did not contain all of the information required by LAC 33:IX.907 for an SPC plan for the Arceneaux SWD Battery. The Respondent's site has three (3) 400 barrel saltwater storage tanks. The SPC regulations in LAC 33:IX.Chapter 9 apply to produced water as specified in LAC 33:IX.903.A.1. The failure to develop an adequate SPC plan is a violation of LAC 33:IX.907 and La. R.S. 30:2076(A)(3).

#### **Violation Specific Factors**

**Degree of Risk/Impact to Human Health Or Property:** Minor

**Justification:** Risk is deemed Minor as no measurable harm or substantial risk to human health or the environment was expected to have occurred. The Department is not aware of any harm or substantial risk to human health or the environment as a result of the violation. This violation is administrative in nature.

**Nature and Gravity of the Violation:** Moderate

**Justification:** Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. The Respondent had an SPCC plan, but this plan did not meet the SPC regulations in LAC 33:IX.Chapter 9. This site included three (3) 400 barrel saltwater storage tanks and therefore, the SPC regulations applied which included the development of an SPC plan. The SPCC plan failed to contain the information required by LAC 33:IX.907 for this site. On or about February 6, 2015, the Department received an SPCC plan dated October 2014, and signed by the Respondent's representative on October 28, 2014, which was developed to provide for the regulations in LAC 33:IX.Chapter 9 and the information for the Arceneaux SWD Battery. The plan included the three (3) produced water above ground storage tanks.

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### 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 = +20%  
Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This was not a violation cited in a previously issued enforcement action.
2. The gross revenues generated by the Respondent.  
Adjustment = +10%  
Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = +10%  
Justification: Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. The Respondent is culpable for failing to develop an adequate SPC plan. Specifically, the SPCC did not contain all of the information required by LAC 33:IX.907 for an SPC plan for the Arceneaux SWD Battery. The Respondent's site has three (3) 400 barrel saltwater storage tanks. The SPC regulations in LAC 33:IX.Chapter 9 apply to produced water as specified in LAC 33:IX.903.A.1. On or about February 6, 2015, the Department received an SPCC plan dated October 2014, and signed by the Respondent's representative on October 28, 2014, which was developed to provide for the regulations in LAC 33:IX.Chapter 9 and the information for the Arceneaux SWD Battery. The plan included the three (3) produced water above ground storage tanks.
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%

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Justification: The Department is not aware of any damages caused by the failure to develop an adequate SPC plan.

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 violation was discovered during inspections conducted on March 10, 2014, March 13, 2014, March 18, 2014, May 2, 2014, and May 15, 2014, by the Department on March 13, 2014. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +40%

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$500.00</u>
	Maximum (C) <u>\$1,500.00</u>

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>+40%</u>
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Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C - A])$
	$P = \$500 + (0.40 \times [\$1,500 - \$500])$
	$P = \$900.00$

Penalty Amount for Penalty Event # 4 = \$900.00

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**Penalty Event #5 – Paragraph II.E** – The Respondent failed to implement good housekeeping measures and/or perform proper maintenance at the Site in accordance with LPDES MSGP Permit LAR05P123. Specifically, the inspection revealed filters from field equipment on the ground near the heater treater; multiple pipes leaking, including the top of the heater treater which was leaking liquid and gas product; valves that were not locked or capped; and the overflow box for the crude oil load out contained oil product inside of it and a stain in front of the box measuring approximately fifteen feet by twenty-five feet. Each failure to implement good housekeeping measures is a violation of LPDES MSGP Permit LAR05P123 (Parts 4.2.9.2, 4.2.9.3 and 9.1.1), La. R.S. 30:2076(A)(3), LAC 33:III.501.A, and LAC 33:IX.2701.A.

#### **Violation Specific Factors**

**Degree of Risk/Impact to Human Health Or Property:** Minor

**Justification:** The degree of risk to human health or property is considered to be Minor as no measurable harm or substantial risk to human health or the environment would have been expected to have occurred. The inspection did not provide any documentation that indicated the leaks reached and/or affected waters of the state or any vegetation.

**Nature and Gravity of the Violation:** Major

**Justification:** Nature & Gravity is deemed Major since the Respondent significantly deviated from the requirements to such an extent that little or no implementation occurred based on the condition of the facility as evidenced by having filters from field equipment on the ground near the heater treater; multiple pipes leaking, including the top of the heater treater which was leaking liquid and gas product; valves that were not locked or capped; and the overflow box for the crude oil load out contained oil product inside of it and a stain in front of the box measuring approximately fifteen feet by twenty-five feet.

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### 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 = +20%  
Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This was not a violation cited in a previously issued enforcement action.
2. The gross revenues generated by the Respondent.  
Adjustment = +10%  
Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = +20%  
Justification: The Respondent is culpable for failing to ensure that equipment on the site was maintained to prevent leaks. This was demonstrated by multiple leaks and stains from various equipment and equipment that was not properly secured. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.
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: The Department is not aware of any damages caused by the failure to implement good housekeeping measures and/or perform proper maintenance at the Site in accordance with LPDES MSGP Permit LAR05P123.



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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 violation was discovered during inspections conducted on March 10, 2014, March 13, 2014, March 18, 2014, May 2, 2014, and May 15, 2014, by the Department. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +50%

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$1,500.00</u>
	Maximum (C) <u>\$3,000.00</u>

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>+50%</u>
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Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C - A])$
	$P = \$1,500 + (0.50 \times [\$3,000 - \$1,500])$
	$P = \$2,250.00$

Penalty Amount for Penalty Event # 5 = \$2,250.00

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**Penalty Event #6 – Paragraph V.A** - The inspection on March 13, 2014, revealed that the Respondent caused and/or allowed the discharge of oily fluids to waters of the state. The inspection noted that approximately one (1) to three (3) barrels of crude oil had been discharged and that there were visual signs that the crude oil flowed into the road side ditch. The road side ditch flows to waters of the state. According to the Respondent's written notification report dated July 18, 2014, the discharge occurred on or about March 6, 2014, and was the result of an oil transport driver pumping air into the tank and causing oil to overflow the top hatch of the tank. Each discharge of oily fluids is a violation of LAC 33:IX.1701.B and La. R.S. 30:2076(A)(3).

#### **Violation Specific Factors**

**Degree of Risk/Impact to Human Health Or Property:** Minor

**Justification:** The degree of risk to human health or property is considered to be Minor because no measurable harm or substantial risk to the environment or public health would have been expected to have occurred. Approximately one (1) to three (3) barrels of crude oil was released, and the discharge was cleaned up. The storm water discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River (subsegment # 030506). Subsegment # 030506 fully supports the designated uses for secondary contact recreation (boating) and primary contact recreation (swimming). However, it does not fully support the designated use for fish and wildlife propagation (fishing). The suspected causes of impairment are dissolved oxygen possibly associated with livestock, natural sources, and silviculture activities. The inspection noted that there were visual signs that the crude oil flowed into the road side ditch.

**Nature and Gravity of the Violation:** Moderate

**Justification:** Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement by causing and/or allowing the discharge of oily fluids to waters of the state. The inspection noted that approximately one (1) to three (3) barrels of crude oil had been discharged. As revealed during the inspection, the tank battery had heavy stains inside secondary containment, in the road side ditch, and in front of the secondary containment discharge valve. There were visual signs of oil being released from the secondary containment by a valve being opened on the west side of the secondary containment. The release from the valve resulted in crude oil going off-site into the road-side ditch. According to the Respondent's July 18, 2014 report, the small quantity discharged made recovery by vacuum truck impossible, but the affected ground was removed soon thereafter. Subsequent remediation involved replacing the affected ground with clean dirt and gravel. A letter from the Respondent dated February 6, 2015, noted that once the stained soils were discovered by the Department, a minimal amount of crude oil was recovered using absorbent materials. According to the Respondent, the stained areas inside and outside of the containment berm had fresh fill soil added which was then tilled into the impacted soils to aerate and enhance natural bioremediation.

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### 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 = +20%  
Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This type of violation was previously cited in Compliance Order & Notice of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620, but came to light as a result of the inspection that occurred at the Respondent's other site and was noted at approximately the same time.
2. The gross revenues generated by the Respondent.  
Adjustment = +10%  
Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00621 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = +10%  
Justification: The Respondent is culpable for the discharge of oily fluids. According to the Respondent's unauthorized discharge report dated July 18, 2014, the discharge on the Respondent's site was the result of its oil transport driver emptying his transfer hose back into the tank in such a way that oil was blown out the top hatch of the tank. According to the Respondent's July 18, 2014 report, the small quantity discharged made recovery by vacuum truck impossible, but the affected ground was removed soon thereafter. Subsequent remediation involved replacing the affected ground with clean dirt and gravel.
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%

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Justification: A letter from the Respondent dated February 6, 2015, noted that once the stained soils were discovered by the Department, a minimal amount of crude oil was recovered using absorbent materials. According to the Respondent, the stained areas inside and outside of the containment berm had fresh fill soil added which was then tilled into the impacted soils to aerate and enhance natural bioremediation. In a letter dated April 15, 2016, in response to the follow up inspection conducted on December 14, 2015, the Respondent added that it had considered the cleanup activities complete prior to receipt of the Compliance Order issued on December 4, 2014, and had applied approved Louisiana Department of Natural Resources (LDNR) remedial actions to restore the site conditions. The Respondent also noted that based on laboratory analysis of samples collected in response to the unauthorized discharge, all analytical results indicated compliance with the Department's RECAP and LDNR 29-B requirements.

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 violation was discovered during an inspection conducted by the Department on March 13, 2014. The unauthorized discharge did not cause an emergency condition, and therefore, the Respondent was not required to immediately report it. The Respondent was required to report it within 24 hours as required by LAC 33:1.3917.A. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +40%

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$500.00</u>
	Maximum (C) <u>\$1,500.00</u>

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>+40%</u>
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Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C - A])$
	$P = \$500 + (0.40 \times [\$1,500 - \$500])$
	$P = \$900.00$

Penalty Amount for Penalty Event # 6 = \$900.00

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**Penalty Event #7 – Paragraph V.B** - The inspection on March 13, 2014, revealed that the Respondent failed to timely notify the Department of the unauthorized discharge that occurred on March 6, 2014. Although discovered during the inspection on March 13, 2014, the release was not reported to the Department until March 18, 2014. The Respondent's failure to notify the Department of an unauthorized discharge that exceeds a reportable quantity, but does not cause an emergency condition within 24 hours is a violation of LAC 33:1.3917.A and La R.S. 30:2076(A)(3).

#### Violation Specific Factors

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

Justification: The degree of risk to human health or property is considered to be Minor because no measurable harm or substantial risk to human health or the environment was expected to have occurred. The failure to provide timely notification of the unauthorized discharge would not have been expected to result in measurable harm or substantial risk to human health or the environment.

Nature and Gravity of the Violation: Moderate

Justification: Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. The Respondent was required to notify the Department of the unauthorized discharge that exceeds a reportable, but does not cause an emergency condition within 24 hours. The unauthorized discharge occurred on March 6, 2014, and was discovered during the inspection on March 13, 2014, but was not reported to the Department until March 18, 2014.

#### 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 =  $\frac{\quad}{\quad} +20\%$

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This was not a violation cited in a previously issued enforcement action.

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2. The gross revenues generated by the Respondent.  
Adjustment = +10%  
Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00621 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.
  
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = +10%  
Justification: The Respondent is culpable for failing to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition. The Respondent was required to promptly notify within 24 hours after learning of the discharge that occurred on or about March 6, 2014. As revealed during the inspection on March 18, 2014, the Respondents' pumper knew the release occurred on March 6, 2014. However, the release was not reported by the Respondent until the inspectors explained the reporting requirements to the pumper. Based on the amount of approximately one (1) to three (3) barrels of crude oil estimated to have been discharged at the time of the inspection, and the Respondent's written notification report dated July 18, 2014, indicating that approximately one (1) barrel of oil had been discharged, the Respondent failed to provide timely notification of the discharge. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.
  
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: The Department is not aware of any damages caused by the failure to provide timely notification for the unauthorized discharge.
  
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 violation was discovered during an inspection conducted by the Department on March 13, 2014. The Respondent reported the release to the Department on March 18, 2014. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +40%

Penalty Range for the Penalty Event	Minimum (A)	<u>\$500.00</u>
(using the Violation Specific Factors)	Maximum (C)	<u>\$1,500.00</u>

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and the Penalty Matrix)

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

Sum of %s (B) +40%

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

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

$$P = \$500 + (0.40 \times [\$1,500 - \$500])$$

$$P = \$900.00$$

Penalty Amount for Penalty Event # 7 = \$900.00

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**Penalty Event #8 – Paragraph V.C** The file review conducted on September 10, 2014, of the unauthorized discharge that occurred on March 6, 2014, revealed that the Respondent failed to timely submit the written report of the unauthorized discharge that occurred on March 6, 2014. The Respondent submitted a report dated July 18, 2014, which was received by the Department on or about July 28, 2014, for the unauthorized discharge that occurred on March 6, 2014. The report was not submitted within seven (7) calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919 nor did it provide all of the information specified in LAC 33:I.3925.B. Specifically, the report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. The failure to timely provide the written report of the unauthorized discharge of any material that exceeds the reportable quantity is a violation of LAC 33:I.3925.A and La. R.S. 30:2076(A)(3). Each failure to include all required elements in the written report is a violation of LAC 33:I.3925.B.14 and La. R.S. 30:2076(A)(3).

#### **Violation Specific Factors**

**Degree of Risk/Impact to Human Health Or Property: Minor**

**Justification:** The degree of risk to human health or property is considered to be Minor because no measurable harm or substantial risk to human health or the environment was expected to have occurred. The failure to timely submit the written report would not have been expected to result in measurable harm or substantial risk to human health or the environment. The failure to include all of the required information on the unauthorized discharge written report is considered administrative in nature.

**Nature and Gravity of the Violation: Moderate**

**Justification:** Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement. The Respondent was required to submit a written report to the Department within seven (7) calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919. The Respondent notified the Department of the unauthorized discharge on March 18, 2014. The written report should have been submitted by March 25, 2014. The Department received the written report which was dated July 18, 2014, on or about July 28, 2014. The written unauthorized discharge report did not provide all of the information specified in LAC 33:I.3925.B. Specifically, the report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. However, this is only one of many elements required to be included in the unauthorized discharge written report.



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### 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 = +20%

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This type of violation was previously cited in Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620, but came to light as a result of the inspection that occurred at the Respondent's other site and was noted at approximately the same time.

2. The gross revenues generated by the Respondent.

Adjustment = +10%

Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00621 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on the Internet site [www.hoovers.com](http://www.hoovers.com). On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.

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

Adjustment = +10%

Justification: The Respondent is culpable for failing to timely submit the written report of the unauthorized discharge that occurred on March 6, 2014, and include all required elements in the written report. The written report should have been submitted by March 25, 2014. The Department received the written report which was dated July 18, 2014, on or about July 28, 2014. The report did not provide a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.

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%

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Justification: The Department is not aware of any damages caused by the failure to provide timely notification for the unauthorized discharge and the failure to provide a complete unauthorized discharge written report.

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 violation was discovered during a file review conducted by the Department on September 10, 2014. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

Total Percentage for Violator Specific Adjustment Factors: +40%

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$500.00</u>
	Maximum (C) <u>\$1,500.00</u>

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>+40%</u>
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Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C - A])$
	$P = \$500 + (0.40 \times [\$1,500 - \$500])$
	$P = \$900.00$

Penalty Amount for Penalty Event # 8 = \$900.00

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**Penalty Event #9 – Paragraph V.D** - The inspections on March 13, 2014, March 18, 2014 and May 2, 2014, revealed that the Respondent failed to immediately initiate a remedial response to the March 6, 2014, unauthorized discharge. Specifically, the inspection on March 13, 2014, revealed that the tank battery had heavy stains inside the secondary containment, in the road side ditch, and in front of the secondary containment discharge valve. Recoverable crude oil was inside and outside of the secondary containment. There were visual signs of oil being released from the secondary containment by a valve being opened on the west side of the secondary containment. The valve leads to the road side ditch that flows to waters of the State. On March 18, 2014, representatives of the Department met with a representative of the Respondent to discuss the inspection findings. The representatives of the Department spoke to the representative of the Respondent about the recovery and disposal of product and contaminated soil at the Site. The Respondent's representative was also instructed to contact the Department before any placement of clean soil in remediated areas was done. On May 2, 2014, a follow-up inspection of the Site revealed (1) an oil contaminated area approximately 20 by 50 yards that had been covered in soil which made it impossible to verify if the remediation was completed on the east side of the secondary containment, (2) the oil catch box contained recoverable product inside, and (3) recoverable emulsified oil was present inside the secondary containment. The failure to immediately initiate a remedial response to the unauthorized discharge is a violation of LAC 33:IX.708.C.1.b.iv. and La. R.S. 30:2076(A)(3).

#### **Violation Specific Factors**

Degree of Risk/Impact to Human Health Or Property: Moderate

**Justification:** The degree of risk to human health or property is considered to be Moderate because the failure to timely cleanup and remediate the unauthorized discharge had the potential for measurable detrimental impact on the environment or public health. In accordance with LAC 33:IX.708.C.1.b.iv, a remedial response must be initiated immediately for the unauthorized discharge, which shall include immediate removal of discharged materials and to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. An immediate response did not occur in this case. The inspection revealed that the tank battery had heavy stains inside the secondary containment, in the road side ditch, and in front of the secondary containment discharge valve. Recoverable crude oil was inside and outside of the secondary containment. There were visual signs of oil being released from the secondary containment by a valve being opened on the west side of the secondary containment. The valve leads to the road side ditch that flows to waters of the state, which could result in the potential for detrimental impact, especially considering that the Respondent's delay in cleaning up and remediating the site. The storm water discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River (subsegment # 030506). Subsegment # 030506 fully supports the designated uses for secondary contact recreation (boating) and primary contact recreation (swimming). However, it does not fully support the designated use for fish and wildlife propagation (fishing). The suspected causes of impairment are dissolved oxygen possibly associated with livestock, natural sources, and silviculture activities. The approximately one (1) to three (3) barrels of crude oil released was eventually cleaned up.

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Nature and Gravity of the Violation: Moderate

Justification: Nature & Gravity is deemed Moderate since the Respondent substantially negated the intent of the requirement by failing to immediately initiate a remedial response to the unauthorized discharge. The unauthorized discharge occurred on March 6, 2014. Inspections were conducted on March 13, 2014, March 18, 2014 and May 2, 2014. On May 2, 2014, a follow-up inspection of the Site still revealed (1) an oil contaminated area approximately 20 by 50 yards that had been covered in soil which made it impossible to verify if the remediation was completed on the east side of the secondary containment, (2) the oil catch box contained recoverable product inside, and (3) recoverable emulsified oil was present inside the secondary containment. According to the Respondent's July 18, 2014 report, the small quantity discharged made recovery by vacuum truck impossible, but the affected ground was removed soon thereafter. Subsequent remediation involved replacing the affected ground with clean dirt and gravel. A letter from the Respondent dated February 6, 2015, noted that once the stained soils were discovered by the Department, a minimal amount of crude oil was recovered using absorbent materials. According to the Respondent, the stained areas inside and outside of the containment berm had fresh fill soil added which was then tilled into the impacted soils to aerate and enhance natural bioremediation. In a letter dated April 15, 2016, in response to the follow up inspection conducted on December 14, 2015, the Respondent noted that it had considered the cleanup activities complete prior to receipt of the Compliance Order.

#### 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 = +20%

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This type of violation was previously cited in Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620, but was discovered as a result of the inspection that occurred at the Respondent's other site and was noted at approximately the same time.

2. The gross revenues generated by the Respondent.

Adjustment = +10%

Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00621 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The

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Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.

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

Adjustment =       +20%      

Justification: The Respondent is culpable for failing to immediately initiate a remedial response to the unauthorized discharge. According to the Respondent's July 18, 2014 report, the small quantity discharged made recovery by vacuum truck impossible, but the affected ground was removed soon thereafter. Subsequent remediation involved replacing the affected ground with clean dirt and gravel. A letter from the Respondent dated February 6, 2015, noted that once the stained soils were discovered by the Department, a minimal amount of crude oil was recovered using absorbent materials. According to the Respondent, the stained areas inside and outside of the containment berm had fresh fill soil added which was then tilled into the impacted soils to aerate and enhance natural bioremediation. In a letter dated April 15, 2016, in response to the follow up inspection conducted on December 14, 2015, the Respondent added that it had considered the cleanup activities complete prior to receipt of the Compliance Order issued on December 4, 2014, and had applied approved Louisiana Department of Natural Resources (LDNR) remedial actions to restore the site conditions. According to the Respondent's April 15, 2016 letter, soil samples were collected on December 18, 2015. The Respondent noted that based on laboratory analysis of samples collected in response to the unauthorized discharge, all analytical results indicated compliance with the Department's RECAP and LDNR 29-B requirements. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.

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: According to the Respondent's July 18, 2014 report, the affected ground was removed and subsequent remediation involved replacing the affected ground with clean dirt and gravel. A letter from the Respondent dated February 6, 2015, noted that once the stained soils were discovered by the Department, a minimal amount of crude oil was recovered using absorbent materials. According to the Respondent, the stained areas inside and outside of the containment berm had fresh fill soil added which was then tilled into the impacted soils to aerate and enhance natural bioremediation.

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 violation was discovered during inspections conducted on March 13, 2014, March 18, 2014 and May 2, 2014. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation.

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Total Percentage for Violator Specific Adjustment Factors: +50%

Penalty Range for the Penalty Event  
(using the Violation Specific Factors  
and the Penalty Matrix)                      Minimum (A) \$5,000.00  
   Maximum (C) \$8,000.00

Sum of the Percentages for the Penalty Event  
(using the Violator Specific Factors)                      Sum of %s (B) +50%

Formula(s) to obtain a penalty amount for each  
Penalty event                       $P = A + (B \times [C - A])$   
    $P = \$5,000 + (0.50 \times [\$8,000 -$   
    $\$5,000])$   
    $P = \$6,500.00$

Penalty Amount for Penalty Event # 9 = \$6,500.00

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**Penalty Event #10 – Paragraph V.E** - The inspection on May 15, 2014, revealed that the Respondent failed to develop and implement an adequate Spill Prevention and Control (SPC) plan that meets the requirements of LAC 33:IX.907. The Respondent provided a Spill Prevention, Control and Countermeasure Plan (SPCC) required by 40 CFR 112 which contains several of the Bridwell Oil Company fields. The SPCC plan can also serve as the SPC plan if all requirements for a complete SPC plan, as specified in LAC 33:IX.907, are incorporated into the SPCC plan. The SPCC plan was reviewed and was determined to be inadequate in regard to the requirements of LAC 33:IX.907. Specifically, the Respondent failed to correctly identify the substance being stored in the northeast tank. The Respondent's representative stated that the oil release was from the northeast tank which had visual signs of the oil release. The SPCC plan indicated that the northeast tank only contained water. The failure to develop and implement an adequate SPC plan is a violation of LAC 33:IX.907.B.7 and La. R.S. 30:2076(A)(3).

#### **Violation Specific Factors**

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

Justification: Risk is deemed Minor as no measurable harm or substantial risk to human health or the environment would have been expected to have occurred. This violation is administrative in nature.

Nature and Gravity of the Violation: Minor

Justification: Nature & Gravity is deemed Minor since the Respondent did demonstrate some deviation from the requirements, but substantial implementation did occur. The Respondent did have a Spill Prevention and Control (SPC) plan. However, the plan failed to correctly identify the substance being stored in the northeast tank.

#### **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 = +20%

Justification: The Respondent has a history of noncompliance with the Louisiana Environmental Regulations. The Respondent was previously issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-08-0023 on November 7, 2008, for violations of the Air Quality Regulations at multiple sites. The Department reached a settlement agreement with the Respondent for the violations cited in AE-PP-08-0023. Settlement Agreement SA-AE-09-0020 was finalized on November 18, 2009. Compliance Order & Notices of Potential Penalty, Enforcement Tracking Nos. MM-CN-14-00620 and MM-CN-

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14-00621 were issued on December 4, 2014 and January 8, 2015, respectively, which are the subject of this penalty assessment. This type of violation was previously cited in Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00620, but was discovered as a result of the inspection that occurred at the Respondent's other site and was noted at approximately the same time.

2. The gross revenues generated by the Respondent.

Adjustment = +10%

Justification: Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-14-00621 issued to the Respondent on December 4, 2014, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested annual gross revenue statement; therefore, it is viewed by the Department as an admission 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. The Department obtained gross revenues from the D & B Hoovers database on www.hoovers.com. On September 16, 2019, this website indicated the Respondent had estimated sales revenues of \$7.21 million dollars.

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

Adjustment = +10%

Justification: The Respondent is culpable for failing to develop and implement an adequate Spill Prevention and Control (SPC) plan that meets the requirements of LAC 33:IX.907. The Respondent submitted a SPC plan to the Department under cover letter dated February 6, 2015, in response to the CONOPP. An inspection was conducted on December 14, 2015, to verify compliance with Compliance Order MM-CN-14-00621. At the time of the December 14, 2015 inspection, the Department obtained an updated SPC plan dated October 2014, with a signature date of October 28, 2014, which was revised to indicate that the northeast tank stores crude oil. A review of the updated SPC plan during the inspection did not note any areas of concern. However, the Respondent did not exhibit recalcitrance, defiance, or indifference to regulations or orders.

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: The Department is not aware of any damages caused by the 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: An inspection conducted by the Department on May 15, 2014, revealed the violation. The Department does not have any evidence or documentation that demonstrates the Respondent attempted to conceal the violation. There is no requirement to immediately report this violation.

Total Percentage for Violator Specific Adjustment Factors: +40%



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

Minimum (A) \$100.00  
Maximum (C) \$500.00

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

Sum of %s (B) +40%

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

$P = A + (B \times [C - A])$   
 $P = \$100 + (0.40 \times [\$500 - \$100])$   
 $P = \$260.00$

Penalty Amount for Penalty Event # 10 = \$260.00

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**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:**

Penalty event numbers 1 and 6 were the causing and/or allowing the discharge of oily fluids and/or produced water. The Department reviewed each of these violations to determine if the Respondent received a benefit of noncompliance. The Department has no evidence that the broken plunger line was the result of a failure to properly maintain the equipment. The other releases were reported to be from the failure to follow procedures. Based on the causes of the unauthorized discharges, the Department did not find that the Respondent had received a benefit of noncompliance.

For Penalty event numbers 2 and 9, the Department also determined that the Respondent did eventually perform the remediation of the unauthorized discharge. Any delayed costs associated with expenditures on the cleanup of the sites would be minimal, if any, considering the timeframe for remediating the sites.

The Department noted that penalty event numbers 3, 7, and 8 were violations that were either administrative (paperwork) in nature or were the result of the failure to timely provide notification or reports. These violations would not have resulted in a benefit of noncompliance since the reports were prepared and the notifications would have been verbal.

Penalty event numbers 4 and 10 were reviewed to determine if the Respondent had received a benefit of noncompliance. Both violations concerned the failure to develop and/or implement an adequate Spill Prevention and Control (SPC) plan and in both cases, the Respondent had prepared plans. The plans were revised to document additional information and details of equipment that were on the sites. The Department concluded that Respondent would not have received a benefit of noncompliance.

For penalty event number 5, the housekeeping and maintenance that was not performed as evidenced in the inspections would have resulted in only minimal benefit of noncompliance. The violations documented were those in which personnel of the Respondent would have performed the tasks as part of their job duties and any associated costs for equipment repairs would have been minimal.

Total Monetary Benefit of Noncompliance =     \$0.00

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**COMPUTATION OF RESPONSE COST**  
LAC 33: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)
<b>Enforcement Division</b>						
Enforcement Writer	6.0	\$23.03	\$138.18	57.08%	\$78.87	\$217.05
Enforcement Writer	8.0	\$29.64	\$237.12	57.08%	\$135.35	\$372.47
Enforcement Writer	10	\$31.45	\$314.50	60.23%	\$189.42	\$503.92
Enforcement Supervisor	2.0	\$25.27	\$50.54	57.08%	\$28.85	\$79.39
Enforcement Supervisor	1.5	\$31.25	\$46.88	57.08%	\$26.76	\$73.64
Enforcement Analyst	0.5	\$17.97	\$8.99	57.08%	\$5.13	\$14.12
Enforcement Analyst	1.5	\$21.84	\$32.76	60.23%	\$19.73	\$52.49
Enforcement Manager	2.0	\$34.10	\$68.20	57.08%	\$38.93	\$107.13
Enforcement Manager	1.5	\$36.00	\$54.00	57.08%	\$30.82	\$84.82
Enforcement Manager	1.5	\$36.17	\$54.26	60.23%	\$32.68	\$86.94
Enforcement Administrator	1.0	\$37.49	\$37.49	57.08%	\$21.40	\$58.89
Enforcement Administrator	1.0	\$41.76	\$41.76	60.23%	\$25.15	\$66.91
OEC Assistant Secretary	0.25	\$45.74	\$11.44	57.08%	\$6.53	\$17.97

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Personnel (A)	No. of Hours (B)	Hourly Rate of Pay (C)	Direct Cost (D)	Approved Federal Rate (E)	Indirect Cost (F)	Subtotal (G)
OEC Assistant Secretary	0.25	\$49.04	\$12.26	60.23%	\$7.38	\$19.64
<b>Legal Division</b>						
Enforcement Attorney	2.0	\$35.69	\$71.38	57.08%	\$40.74	\$112.12
Enforcement Attorney	1.5	\$37.13	\$55.70	60.23%	\$33.55	\$89.25
<b>Surveillance</b>						
Inspector	90	\$15.98	\$1,438.20	57.56%	\$827.83	\$2,266.03
<b>Total Enforcement Costs:</b>						<b>\$4,222.78</b>

**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, 2013-June 30, 2014: 57.56%

Approved Federal Rate Effective July 1, 2014-June 30, 2015: 57.08%

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.

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### FINAL PENALTY CALCULATION

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

$$P_s = P_1 + P_2 + P_3 \dots$$

$$P_s = \$1,000.00 + \$6,800.00 + \$900.00 + \$900.00 + \$2,250.00 + \$900.00 + \$900.00 + \\ \$900.00 + \$6,500.00 + \$260.00$$

$$P_s = \underline{\$21,310.00}$$

**Response Costs ( $R_c$ )** are then added to the penalty subtotal ( $P_s$ ) to determine the total penalty amount ( $P_t$ ).

$$R_c = \underline{\$4,222.78}$$

**Penalty Total = Penalty Subtotal + Response Costs**

$$P_t = P_s + R_c$$

$$P_t = \$21,310.00 + \$4,222.78$$

$$P_t = \underline{\$25,532.78}$$

**Penalty Total = \$25,532.78**



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAY 05 2022

CERTIFIED MAIL (7021 0950 0001 9072 8690)  
RETURN RECEIPT REQUESTED

**BRIDWELL OIL MANAGEMENT, L.L.C.**  
c/o Jim Diehl  
Agent for Service of Process  
233 La Rue France  
Lafayette, Louisiana 70508


**RE: AMENDED PENALTY ASSESSMENT  
ENFORCEMENT TRACKING NO. MM-P-18-00481A  
AGENCY INTEREST NOS. 160534 & 155249**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED PENALTY ASSESSMENT** is hereby served on **BRIDWELL OIL MANAGEMENT, L.L.C. (RESPONDENT)** for the violations described therein.

Any questions concerning this action should be directed to Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

Sincerely,

  
Angela Marse  
Administrator  
Enforcement Division

AM/RO/ro  
Alt ID No. LAR05P794 & LAR05P123  
Attachment



c: Mr. Steve Ginnings, Manager  
Bridwell Oil Management, L.L.C.  
810 8<sup>th</sup> Street  
Wichita Falls, TX 76301

**STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE**

<b>IN THE MATTER OF</b>	*	
	*	
<b>BRIDWELL OIL MANAGEMENT, L.L.C.</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
<b>BEAUREGARD PARISH</b>	*	
<b>ALT ID NO. LAR05P794 &amp; LAR05P123</b>	*	<b>MM-P-18-00481A</b>
	*	
	*	<b>AGENCY INTEREST NOS.</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	<b>160534 &amp; 155249</b>
<b>ENVIRONMENTAL QUALITY ACT,</b>	*	
<b>La. R.S. 30:2001, ET SEQ.</b>	*	

**AMENDED PENALTY ASSESSMENT**

The Louisiana Department of Environmental Quality (the Department) hereby amends the **PENALTY ASSESSMENT, ENFORCEMENT TRACKING NO. MM-P-18-00481** issued to **BRIDWELL OIL MANAGEMENT, L.L.C. (RESPONDENT)** on May 20, 2020, in the above-captioned matter as follows:

I.

The Department hereby amends **PENALTY ASSESSMENT, ENFORCEMENT TRACKING NO. MM-P-18-00481** to remove **BRIDWELL OIL COMPANY** as a Respondent, and any other references to it, in its entirety.

II.

The Department hereby amends paragraph IV of the Findings of Fact to read as follows:

"IV.

The Respondent owns and/or operates the SUB Tank Battery – Boneset Creek Field (the Site) (Agency Interest No. 155249) located at 3 Pines Church Road in DeRidder, Beauregard Parish, Louisiana. On or about July 18, 2014, the Department received, from the Respondent, a LPDES notice of intent (NOI) for coverage under a LPDES Storm Water Multi-Sector General Permit for Industrial Activities (MSGP) LAR050000. The Respondent was granted authorization under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAR050000 effective September 29, 2014, and specifically assigned LPDES permit number LAR05P794. LPDES General Permit LAR050000 was reissued on May



9, 2016, and the Respondent was reauthorized under this permit effective on September 6, 2016. The stormwater discharge flows through local drainage, thence into Tubes Creek, thence into Bundicks Creek, and thence into the Calcasieu River.”

III.

The Department hereby amends paragraph V.E of the Findings of Fact to read as follows:

“E. The inspection on May 15, 2014, revealed that the Respondent failed to develop and implement an adequate Spill Prevention and Control (SPC) plan that meets the requirements of LAC 33:IX.907. The Respondent provided a Spill Prevention, Control and Countermeasure Plan (SPCC) required by 40 CFR 112. The SPCC plan can also serve as the SPC plan if all requirements for a complete SPC plan, as specified in LAC 33:IX.907, are incorporated into the SPCC plan. The SPCC plan was reviewed and was determined to be inadequate in regard to the requirements of LAC 33:IX.907. Specifically, the Respondent failed to correctly identify the substance being stored in the northeast tank. The Respondent’s representative stated that the oil release was from the northeast tank which had visual signs of the oil release. The SPCC plan indicated that the northeast tank only contained water. The failure to develop and implement an adequate SPC plan is a violation of LAC 33:IX.907.B.7 and La. R.S. 30:2076(A)(3).”

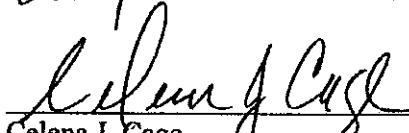
IV.

The Department incorporates all of the remainder of the original **PENALTY ASSESSMENT, ENFORCEMENT TRACKING NO. MM-P-18-00481** and **AGENCY INTEREST NOS. 160534 & 155249** as if reiterated herein.

V.

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

Baton Rouge, Louisiana, this 31<sup>st</sup> day of May, 2022.

  
\_\_\_\_\_  
Celena J. Cage  
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  
Post Office Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Richard Ober, Jr.