

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**FIBA TECHNOLOGIES, INC.**

**AI # 22647**

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

\* **Settlement Tracking No.**  
\* **SA-WE-23-0071**  
\*  
\* **Enforcement Tracking No.**  
\* **WE-P-20-00753**  
\*  
\*  
\* **Docket No. 2022-8041-DEQ**  
\*

**SETTLEMENT AGREEMENT**

The following Settlement Agreement is hereby agreed to between FIBA Technologies, Inc. (“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 corporation that owns and/or operates a gas cylinder testing facility located in Rayne, Acadia Parish, Louisiana (“the Facility”).

**II**

On July 2, 2021, the Department issued to Respondent a Penalty Assessment, Enforcement Tracking No. WE-P-20-00753 (Exhibit 1).

**III**

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

**IV**

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

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00), of which One Thousand Six Hundred Sixty-Seven and 54/100 Dollars (\$1,667.54) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Penalty Assessment and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

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

VIII

This Settlement Agreement is being made in the interest of settling the state's claims and

avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and Settlement Agreement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

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

XI

Payment is to be made over a period of twenty-four (24) months. The first payment of \$3,750.00 is to be made within thirty (30) days from notice of the Secretary's signature, with subsequent payments due in the amount of \$3,750.00 every 90 days thereafter, until the remaining balance is paid in full. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box

4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XIII

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

XIV

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.

**FIBA TECHNOLOGIES, INC.**

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

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

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Roger W. Gingles, Secretary

BY: \_\_\_\_\_  
Celena J. Cage, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

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

Approved:   
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

July 2, 2021

CERTIFIED MAIL (7019 0700 0000 0331 3022)  
RETURN RECEIPT REQUESTED

**FIBA TECHNOLOGIES, INC.**  
c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, Louisiana 70816

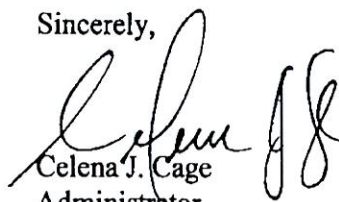
**RE: PENALTY ASSESSMENT  
ENFORCEMENT TRACKING NO. WE-P-20-00753  
AGENCY INTEREST NO. 22647**

Dear Sir:

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

Any questions concerning this action should be directed to Bernie Boyett at (225) 219-0783.

Sincerely,

  
Celena J. Cage  
Administrator  
Enforcement Division

CJC/BKB/bkb  
Alt ID No. LA0110183  
Attachment



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

<b>IN THE MATTER OF</b>	*	
	*	
<b>FIBA TECHNOLOGIES, INC.</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
<b>ACADIA PARISH</b>	*	
<b>ALT ID NO. LA0110183</b>	*	<b>WE-P-20-00753</b>
	*	
	*	<b>AGENCY INTEREST NO.</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	<b>22647</b>
<b>ENVIRONMENTAL QUALITY ACT,</b>	*	
<b>La. R.S. 30:2001, ET SEQ.</b>	*	

**PENALTY ASSESSMENT**

The following **PENALTY ASSESSMENT** is issued to **FIBA TECHNOLOGIES, INC.** (**RESPONDENT**) by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(E) and 30:2050.3.

**FINDINGS OF FACT**

**I.**

The Respondent owns and/or operates a gas cylinder testing facility located at 245 Lexington Drive in Rayne, Acadia Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0110183 on September 7, 2010, with an effective date of October 1, 2010, and an expiration date of September 30, 2015. The Respondent submitted an LPDES permit renewal application to the Department on or about May 20, 2015, and LPDES permit LA0110183 was administratively continued. The Department reissued LPDES permit LA0110183 on February 25, 2016, with an effective date of April 1, 2016, and an expiration date of March 31, 2021. LPDES permit LA0110183 authorizes the Respondent to discharge hydrostatic test wastewater, rinse water, and storm water runoff into local drainage, thence into Bayou Queue de Tortue, waters of the state.

## II.

An inspection conducted by the Department on or about November 5, 2015, and a subsequent file review conducted by the Department on or about April 18, 2016, revealed that the Respondent exceeded effluent limitations. These effluent exceedances, as reported by the Respondent on monthly Discharge Monitoring Reports (DMRs) and Non-Compliance Reports (NCRs), are summarized below:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
01/2012	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	37
		TSS (Monthly Avg.) – mg/L	30	76
		TSS (Daily Max) – mg/L	45	76
04/2012	002A	TSS (Monthly Avg.) – mg/L	30	33
05/2012	002A	Fecal Coliform (Monthly Avg.) – col/100 ml	200	7,500
		Fecal Coliform (Daily Max.) – col/100 ml	400	7,500
06/2012	002A	TSS (Monthly Avg.) – mg/L	30	36
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	1,000,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	1,000,000
07/2012	002A	TSS (Monthly Avg.) – mg/L	30	73
		TSS (Daily Max) – mg/L	45	73
08/2012	002A	TSS (Monthly Avg.) – mg/L	30	53
		TSS (Daily Max) – mg/L	45	53
09/2012	002A	TSS (Monthly Avg.) – mg/L	30	33
10/2012	002A	TSS (Monthly Avg.) – mg/L	30	41
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	100,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	100,000
11/2012	002A	TSS (Monthly Avg.) – mg/L	30	35
12/2012	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	34
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	2,500
		Fecal Coliform (Daily Max.) – col/100 ml	400	2,500
02/2013	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	33
		TSS (Monthly Avg.) – mg/L	30	39
10/2013	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	59
		BOD <sub>5</sub> (Daily Max.) – mg/L	45	59
		TSS (Monthly Avg.) – mg/L	30	99
		TSS (Daily Max) – mg/L	45	99
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	50,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	50,000
11/2013	002A	TSS (Monthly Avg.) – mg/L	30	36
12/2013	002A	TSS (Monthly Avg.) – mg/L	30	52
		TSS (Daily Max) – mg/L	45	52
01/2014	002A	TSS (Monthly Avg.) – mg/L	30	51
		TSS (Daily Max) – mg/L	45	51
02/2014	002A	TSS (Monthly Avg.) – mg/L	30	69
		TSS (Daily Max) – mg/L	45	69



Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
03/2014	002A	TSS (Monthly Avg.) – mg/L	30	49
		TSS (Daily Max) – mg/L	45	49
04/2014	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	31
		TSS (Monthly Avg.) – mg/L	30	85
		TSS (Daily Max) – mg/L	45	85
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	2,100
		Fecal Coliform (Daily Max.) – col/100 ml	400	2,100
05/2014	002A	TSS (Monthly Avg.) – mg/L	30	52
		TSS (Daily Max) – mg/L	45	52
06/2014	002A	TSS (Monthly Avg.) – mg/L	30	56
		TSS (Daily Max) – mg/L	45	56
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	2,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	2,000
07/2014	002A	TSS (Monthly Avg.) – mg/L	30	45
		TSS (Daily Max) – mg/L	45	90
		TSS (Daily Max) – mg/L	45	66
		pH Maximum – S. U.*	9	12.5
05/2015	002A	TSS (Monthly Avg.) – mg/L	30	174
		TSS (Daily Max) – mg/L	45	174
06/2015	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	59
		BOD <sub>5</sub> (Daily Max.) – mg/L	45	59
		TSS (Monthly Avg.) – mg/L	30	73
		TSS (Daily Max) – mg/L	45	73

\*Value submitted on NCR.

Each effluent exceedance is a violation of LPDES permit LA0110183 (Prior to April 1, 2016, Effluent Limitations and Monitoring Requirements, Pages 3 and 4 of 4; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

### III.

A file review conducted by the Department on or about April 18, 2016, revealed that the Respondent failed to submit DMRs in a timely manner. The Respondent is required to submit monthly DMRs on a quarterly basis no later than the 28<sup>th</sup> day of the month following each calendar quarter. Specifically, the Respondent failed to submit monthly DMRs for Outfall 002 by the due dates for April through December of 2012; January, February, March, October, November, and December of 2013; April, May, and June of 2014; and April, May, and June of 2015. Each failure to submit a DMR in a timely manner is a violation of LPDES permit LA0110183 (Facility Requirements, Subsection Submittal/Action Requirements, Pages 4 and 5 of 5; and Standard

Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.

IV.

An inspection conducted by the Department on or about November 5, 2015, and a subsequent file review conducted by the Department on or about April 18, 2016, revealed that the Respondent failed to submit monthly DMRs for Outfall 001 for the monitoring periods of January 2012 through September 2015, and for Outfall 002 for the monitoring periods of April 2013 through September 2013, October 2014 through March 2015, and July 2015 through December 2015. Each failure to submit a DMR is a violation of LPDES permit LA0110183 (Facility Requirements, Subsection Submittal/Action Requirements, Page 4 and 5 of 5; and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a.

V.

A file review conducted by the Department on or about April 18, 2016, revealed that the Respondent did not submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0110183. LPDES permit LA0110183 expired September 30, 2015. The Respondent submitted an LPDES permit renewal application to the Department on or about May 20, 2015. The Respondent's failure to submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0110183 is a violation of LPDES permit LA0110183, (Standard Conditions for LPDES Permits, Sections A.2 and A.5.a), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

VI.

On June 17, 2016, the Department issued a Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. WE-CN-16-00079, to the Respondent. The Respondent received the CONOPP on June 29, 2016.

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 **THIRTY-SEVEN THOUSAND EIGHT HUNDRED SEVEN DOLLARS AND SIXTY-TWO CENTS (\$37,807.62)** is hereby assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.

**THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:**

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **PENALTY ASSESSMENT**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **PENALTY ASSESSMENT**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **PENALTY ASSESSMENT** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality  
Office of the Secretary  
Post Office Box 4302  
Baton Rouge, Louisiana 70821-4302  
**Attn: Hearings Clerk, Legal Division**  
**Re: Enforcement Tracking No. WE-P-20-00753**  
**Agency Interest No. 22647**

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 Department's Rules of Procedure. The Department may amend or supplement this **PENALTY ASSESSMENT** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **PENALTY ASSESSMENT** shall become a final enforcement action unless the request for a hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violations described herein and the assessed penalty.

V.

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

Department of Environmental Quality  
Office of Management and Finance  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
**Attn: Rhonda Mack, Accountant**  
**Re: Enforcement Tracking No. WE-P-20-00753**  
**Agency Interest No. 22647**

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 2nd day of July, 2021.

  
\_\_\_\_\_  
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: Bernie Boyett

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AI #: 22647

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## PENALTY CALCULATION WORKSHEET

**Penalty Event #1 – Paragraph II** - An inspection conducted by the Department on or about November 5, 2015, and a subsequent file review conducted by the Department on or about April 18, 2016, revealed that the Respondent exceeded effluent limitations. These effluent exceedances, as reported by the Respondent on monthly Discharge Monitoring Reports (DMRs) and Non-Compliance Reports (NCRs), are summarized below:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
01/2012	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	37
		TSS (Monthly Avg.) – mg/L	30	76
		TSS (Daily Max) – mg/L	45	76
04/2012	002A	TSS (Monthly Avg.) – mg/L	30	33
05/2012	002A	Fecal Coliform (Monthly Avg.) – col/100 ml	200	7,500
		Fecal Coliform (Daily Max.) – col/100 ml	400	7,500
06/2012	002A	TSS (Monthly Avg.) – mg/L	30	36
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	1,000,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	1,000,000
07/2012	002A	TSS (Monthly Avg.) – mg/L	30	73
		TSS (Daily Max) – mg/L	45	73
08/2012	002A	TSS (Monthly Avg.) – mg/L	30	53
		TSS (Daily Max) – mg/L	45	53
09/2012	002A	TSS (Monthly Avg.) – mg/L	30	33
10/2012	002A	TSS (Monthly Avg.) – mg/L	30	41
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	100,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	100,000
11/2012	002A	TSS (Monthly Avg.) – mg/L	30	35
12/2012	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	34
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	2,500
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02/2013	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	33
		TSS (Monthly Avg.) – mg/L	30	39
10/2013	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	59
		BOD <sub>5</sub> (Daily Max.) – mg/L	45	59
		TSS (Monthly Avg.) – mg/L	30	99
		TSS (Daily Max) – mg/L	45	99
		Fecal Coliform (Monthly Avg.) – col/100 ml	200	50,000
		Fecal Coliform (Daily Max.) – col/100 ml	400	50,000
11/2013	002A	TSS (Monthly Avg.) – mg/L	30	36
12/2013	002A	TSS (Monthly Avg.) – mg/L	30	52
		TSS (Daily Max) – mg/L	45	52
01/2014	002A	TSS (Monthly Avg.) – mg/L	30	51
		TSS (Daily Max) – mg/L	45	51
02/2014	002A	TSS (Monthly Avg.) – mg/L	30	69
		TSS (Daily Max) – mg/L	45	69
03/2014	002A	TSS (Monthly Avg.) – mg/L	30	49
		TSS (Daily Max) – mg/L	45	49
04/2014	002A	BOD <sub>5</sub> (Monthly Avg.) – mg/L	30	31
		TSS (Monthly Avg.) – mg/L	30	85

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Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
04/2014	002A	TSS (Daily Max) - mg/L	45	85
		Fecal Coliform (Monthly Avg.) - col/100 ml	200	2,100
		Fecal Coliform (Daily Max.) - col/100 ml	400	2,100
05/2014	002A	TSS (Monthly Avg.) - mg/L	30	52
		TSS (Daily Max) - mg/L	45	52
06/2014	002A	TSS (Monthly Avg.) - mg/L	30	56
		TSS (Daily Max) - mg/L	45	56
		Fecal Coliform (Monthly Avg.) - col/100 ml	200	2,000
		Fecal Coliform (Daily Max.) - col/100 ml	400	2,000
07/2014	002A	TSS (Monthly Avg.) - mg/L	30	45
		TSS (Daily Max) - mg/L	45	90
		TSS (Daily Max) - mg/L	45	66
		pH Maximum - S. U.*	9	12.5
05/2015	002A	TSS (Monthly Avg.) - mg/L	30	174
		TSS (Daily Max) - mg/L	45	174
06/2015	002A	BOD <sub>5</sub> (Monthly Avg.) - mg/L	30	59
		BOD <sub>5</sub> (Daily Max.) - mg/L	45	59
		TSS (Monthly Avg.) - mg/L	30	73
		TSS (Daily Max) - mg/L	45	73

\*Value submitted on NCR.

Each effluent exceedance is a violation of LPDES permit LA0110183 (Prior to April 1, 2016, Effluent Limitations and Monitoring Requirements, Pages 3 and 4 of 4; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A. In determining the number of penalty events, only one exceedance per parameter per monitoring period was counted, the exceedance that had the greatest deviation from the permit limit.

#### Violation Specific Factors

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

Justification: The degree of risk/impact to human health or property is deemed minor due to the fact that the concentration level of the amount discharged isn't expected to present risk to human health and/or the environment. The receiving stream is Bayou Queue de Tortue, Subsegment 050501. Bayou Queue de Tortue, Subsegment 050501, is designated as Primary Contact Recreation (swimming), Secondary Contact Recreation (boating), Fish and Wildlife Propagation (fishing), and Agriculture. Primary Contact Recreation, Secondary Contact Recreation, and Agriculture are fully supported. It is impaired for Fish and Wildlife Propagation. Suspected causes of impairment are Dissolved Oxygen, Fipronil, Mercury, Nitrate/Nitrite, Phosphorus, and Turbidity. A suspected source of impairment for Dissolved Oxygen, Fipronil, Nitrate/Nitrite, Phosphorus, and Turbidity is Agriculture.

##### Nature and Gravity of the Violation: Minor

Justification: The nature and gravity is deemed minor because the Respondent deviated somewhat from the requirements of the permit; however, substantial implementation of the requirement occurred. At the time of the file review, there were twenty (20) instances of effluent

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AI #: 22647

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limitation exceedances <2X the limit for Outfall 002A. From January 2012 through June 2015, the Respondent submitted DMRs for thirty (30) of the forty-two (42) monitoring periods, reporting exceedances in twenty-three (23) of the monitoring periods as evidenced in the preceding table. Of the twenty-three (23) monitoring periods reporting exceedances, there were twenty (20) exceedances <2X the limit. The twenty (20) exceedances <2X the limit consisted of six (6) BOD<sub>5</sub> exceedances, thirteen (13) Total Suspended Solids exceedances, and one (1) pH exceedance. These twenty (20) exceedances were slightly over the limit.

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

Justification: The degree of risk/impact to human health or property is deemed minor due to the fact that the concentration level of the amount discharged isn't expected to present risk to human health and/or the environment. The receiving stream is Bayou Queue de Tortue, Subsegment 050501. Bayou Queue de Tortue, Subsegment 050501, is designated as Primary Contact Recreation (swimming), Secondary Contact Recreation (boating), Fish and Wildlife Propagation (fishing), and Agriculture. Primary Contact Recreation, Secondary Contact Recreation, and Agriculture are fully supported. It is impaired for Fish and Wildlife Propagation. Suspected causes of impairment are Dissolved Oxygen, Fipronil, Mercury, Nitrate/Nitrite, Phosphorus, and Turbidity. A suspected source of impairment for Dissolved Oxygen, Fipronil, Nitrate/Nitrite, Phosphorus, and Turbidity is Agriculture.

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

Justification: The nature and gravity is deemed moderate because the Respondent deviated substantially from the requirements of the permit, thereby substantially negating the intent of the requirements. At the time of the file review, there were seven (7) instances of effluent limitation exceedances equal to or >2X the limit, but <5X the limit for Outfall 002A. From January 2012 through June 2015, the Respondent submitted DMRs for thirty (30) of the forty-two (42) monitoring periods, reporting exceedances in twenty-three (23) of the monitoring periods as evidenced in the preceding table. Of the twenty-three (23) monitoring periods reporting exceedances, there were seven (7) exceedances equal to or >2X the limit, but <5X the limit, all of which were Total Suspended Solids exceedances.

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

Justification: The degree of risk/impact to human health or property is deemed minor due to the fact that the concentration level of the amount discharged isn't expected to present risk to human health and/or the environment. The receiving stream is Bayou Queue de Tortue, Subsegment 050501. Bayou Queue de Tortue, Subsegment 050501, is designated as Primary Contact Recreation (swimming), Secondary Contact Recreation (boating), Fish and Wildlife Propagation (fishing), and Agriculture. Primary Contact Recreation, Secondary Contact Recreation, and Agriculture are fully supported. It is impaired for Fish and Wildlife Propagation. Suspected causes of impairment are Dissolved Oxygen, Fipronil, Mercury, Nitrate/Nitrite, Phosphorus, and Turbidity. A suspected source of impairment for Dissolved Oxygen, Fipronil, Nitrate/Nitrite, Phosphorus, and Turbidity is Agriculture.



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### Nature and Gravity of the Violation: Major

Justification: The nature and gravity is deemed major because the Respondent deviated significantly from the requirements of the permit to such an extent that little or no implementation of the requirements occurred. At the time of the file review, there were eight (8) instances of effluent limitation exceedances >5X the limit for Outfall 002A. From January 2012 through June 2015, the Respondent submitted DMRs for thirty (30) of the forty-two (42) monitoring periods, reporting exceedances in twenty-three (23) of the monitoring periods as evidenced in the preceding table. Of the twenty-three (23) monitoring periods reporting exceedances, there were eight (8) exceedances >5X the limit. The eight (8) exceedances >5X the limit consisted of one (1) Total Suspended Solids exceedance and seven (7) Fecal Coliform exceedances. All seven (7) of the Fecal Coliform exceedances were equal to or >10X the limit, three (3) of which were equal to or >250X the limit, the highest one being 5,000X the limit.

### Violator Specific Factors

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

1. The history of previous violations or repeated noncompliance.

Adjustment = +0%

Justification: The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079** on June 17, 2016, which included violations for effluent limitation exceedances. The civil penalty for these violations, included in **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079**, is being addressed in this penalty assessment.

2. The gross revenues generated by the Respondent.

Adjustment = +0%

Justification: No gross revenues were submitted by the Respondent. Dunn and Bradstreet, [www.dnb.com](http://www.dnb.com), lists the Respondent's annual revenue for 2019 as \$66.36 million dollars; therefore, it is viewed by the Department that the Respondent had sufficient revenue to comply with all applicable regulations and/or permit conditions and has the ability to pay a reasonable penalty.

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

Adjustment = +20%

Justification: The Respondent is culpable for the violations and showed indifference to the regulations by failing to comply with effluent limitations over multiple monitoring periods.

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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 = +0%

Justification: There were no documented damages caused by the noncompliance.

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 violations were reported on DMRs. The Respondent did not attempt to conceal the violations.

**Total Percentage for Violator Specific Adjustment Factors:** +20%

**Violations <2 times the limit:**

Penalty Range for the Penalty Event (Using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$100</u> Maximum (C) <u>\$500</u>
---	--

Sum of the Percentages for the Penalty Event (Using the Violator Specific Factors)	Sum of %s (B) + <u>20%</u>
---	----------------------------

Formula(s) to obtain a penalty amount for each Penalty event	$P = A + [B \times (C-A)]$ $P = 1 \{A + [B \times (C-A)]\}$
---	--

$P = 20 \{ \$100 + [0.20 \times (\$500 - \$100)] \} = \underline{\$3,600}$

**Violations equal to or >2 times the limit, but <5 times the limit:**

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

Sum of the Percentages for the Penalty Event (Using the Violator Specific Factors)	Sum of %s (B) + <u>20%</u>
---	----------------------------

Formula(s) to obtain a penalty amount for each Penalty event	$P = A + [B \times (C-A)]$ $P = 1 \{A + [B \times (C-A)]\}$
---	--

$P = 7 \{ \$500 + [0.20 \times (\$1,500 - \$500)] \} = \underline{\$4,900}$

**Violations >5 times the limit:**

Penalty Range for the Penalty Event (Using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$1,500</u> Maximum (C) <u>\$3,000</u>
---	--

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Sum of the Percentages for the Penalty Event (Using the Violator Specific Factors)	Sum of %s (B) + <u>20%</u>
Formula(s) to obtain a penalty amount for each Penalty event	$P = A + [B \times (C-A)]$ $P = 1\{A + [B \times (C-A)]\}$

$$P = 8\{\$1,500 + [0.20 \times (\$3,000 - \$1,500)]\} = \underline{\$14,400}$$

$$\text{Penalty Amount for Penalty Event (P}_1\text{)} = \underline{\$22,900}$$

### MONETARY BENEFIT OF NONCOMPLIANCE

LAC 33:I.705.G

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

#### Justification/Explanation/Calculation of Benefit of Noncompliance

The Department has determined that there is no benefit of non-compliance with regards to these violations.

$$\text{Total Monetary Benefit of Noncompliance (B}_1\text{)} = \underline{\$0}$$

$$\text{Total Penalty Amount for Penalty Event} = P_1 + B_1 = \underline{\$22,900}$$

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## PENALTY CALCULATION WORKSHEET

**Penalty Event #2 – Paragraph II** - A file review conducted by the Department on or about April 18, 2016, revealed that the Respondent failed to submit DMRs in a timely manner. The Respondent is required to submit monthly DMRs on a quarterly basis no later than the 28<sup>th</sup> day of the month following each calendar quarter. Specifically, the Respondent failed to submit monthly DMRs for Outfall 002 by the due dates for April through December of 2012; January, February, March, October, November, and December of 2013; April, May, and June of 2014; and April, May, and June of 2015. Each failure to submit a DMR in a timely manner is a violation of LPDES permit LA0110183 (Facility Requirements, Subsection Submittal/Action Requirements, Pages 4 and 5 of 5; and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4. These violations will be treated as one (1) event.

### Violation Specific Factors

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

Justification: The failure to submit DMRs in a timely manner did not present actual harm or substantial risk of harm to the environment or public health. The violations were administrative in nature.

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

Justification: Specifically, from January 2012 through June 2015, the Respondent submitted DMRs for thirty (30) of the forty-two (42) monitoring periods for Outfall 002A. Of the thirty (30) DMRs submitted, twenty-one (21) were submitted past the due dates. The Respondent was required to submit monthly DMRs on a quarterly basis no later than the 28<sup>th</sup> day of the month following each calendar quarter. The Respondent stopped discharging from Outfall 002 in August of 2015. Outfall 002 and any requirements related thereto are not included in the current LPDES permit.

### Violator Specific Factors

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

1. The history of previous violations or repeated noncompliance.  
Adjustment = 0%

Justification: The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079** on June 17, 2016, which included violations for the failure to submit DMRs in a timely manner. The civil penalty for these violations, included in **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079**, is being addressed in this penalty assessment.

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2. The gross revenues generated by the Respondent.  
 Adjustment = 0%

Justification: No gross revenues were submitted by the Respondent. Dunn and Bradstreet, [www.dnb.com](http://www.dnb.com), lists the Respondent's annual revenue for 2019 as \$66.36 million dollars; therefore, it is viewed by the Department that the Respondent had sufficient revenue to comply with all applicable regulations and/or permit conditions and has the ability to pay a reasonable penalty.

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
 Adjustment = +20%

Justification: The Respondent is culpable for the violations and showed indifference to the regulations by failing to submit twenty-one (21) DMRs in a timely manner from April 2012 through June 2015.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
 Adjustment = 0%

Justification: There were no documented damages caused by the noncompliance.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
 Adjustment = 0%

Justification: The Respondent did not attempt to conceal the violations.

**Total Percentage for Violator Specific Adjustment Factors: +20%**

Penalty Range for the Penalty Event (Using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$500</u> Maximum (C) <u>\$1,500</u>
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Sum of the Percentages for the Penalty Event (Using the Violator Specific Factors)	Sum of %s (B) <u>+20%</u>
---	---------------------------

Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C-A])$ $P = 1 \{A + [B \times (C-A)]\}$
---	--

$$P = 1 \{ \$500 + [20\% \times (\$1,500 - \$500)] \} = \underline{\$700}$$

**Penalty Amount for Penalty Event (P<sub>2</sub>) = \$700**

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**MONETARY BENEFIT OF NONCOMPLIANCE**  
LAC 33:I.705.G

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

**Justification/Explanation/Calculation of Benefit of Noncompliance**

The Department has determined that there is no benefit of non-compliance with regards to these violations.

**Total Monetary Benefit of Noncompliance (B<sub>2</sub>) =     \$0**

**Total Penalty Amount for Penalty Event = P<sub>2</sub>+ B<sub>2</sub> = \$700**

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## PENALTY CALCULATION WORKSHEET

**Penalty Event #3 – Paragraph IV** - An inspection conducted by the Department on or about November 5, 2015, and a subsequent file review conducted by the Department on or about April 18, 2016, revealed that the Respondent failed to submit monthly DMRs for Outfall 001 for the monitoring periods of January 2012 through September 2015, and for Outfall 002 for the monitoring periods of April 2013 through September 2013, October 2014 through March 2015, and July 2015 through December 2015. Each failure to submit a DMR is a violation of LPDES permit LA0110183 (Facility Requirements, Subsection Submittal/Action Requirements, Page 4 and 5 of 5; and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a. These violations will be treated as one (1) event per year per outfall for a total of seven (7) events.

### Violation Specific Factors

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

Justification: The failure to submit DMRs did not present actual harm or substantial risk of harm to the environment or public health. The violations were administrative in nature.

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

Justification: The Respondent substantially negated the intent of the requirement by deviating from the requirements of the permit, statutes, and regulations as follows: Specifically, the Respondent failed to submit DMRs for forty-five (45) consecutive monitoring periods for Outfall 001 from January 2012 through September 2015 and for eighteen (18) monitoring periods out of forty-eight (48) for Outfall 002 from January 2012 through December 2015. Outfall 001 is for the intermittent discharge of hydrostatic test wastewater and rinse water and is reported on a quarterly basis under the current permit. The Respondent stopped discharging from Outfall 002 in August of 2015. Outfall 002 and any requirements related thereto are not included in the current LPDES permit. The Respondent is currently submitting DMRs electronically via the Department's NetDMR system.

### Violator Specific Factors

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

1. The history of previous violations or repeated noncompliance.  
Adjustment = 0%

Justification: The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079** on June 17, 2016, which included violations for the failure to submit DMRs. The civil penalty for these violations, included in **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF**

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**POTENTIAL PENALTY WE-CN-16-00079**, is being addressed in this penalty assessment.

2. The gross revenues generated by the Respondent.  
 Adjustment = 0%

Justification: No gross revenues were submitted by the Respondent. Dunn and Bradstreet, [www.dnb.com](http://www.dnb.com), lists the Respondent's annual revenue for 2019 as \$66.36 million dollars; therefore, it is viewed by the Department that the Respondent had sufficient revenue to comply with all applicable regulations and/or permit conditions and has the ability to pay a reasonable penalty.

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
 Adjustment = +20%

Justification: The Respondent is culpable for failing to submit the DMRs and showed indifference to the regulations by repeatedly failing to submit DMRs for forty-five (45) consecutive monitoring periods for Outfall 001 from January 2012 through September 2015 and for eighteen (18) monitoring periods out of forty-eight (48) for Outfall 002 from January 2012 through December 2015.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
 Adjustment = 0%

Justification: There were no documented damages caused by the noncompliance.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
 Adjustment = 0%

Justification: The Respondent did not attempt to conceal the violations.

**Total Percentage for Violator Specific Adjustment Factors: +20%**

Penalty Range for the Penalty Event (using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$1,500</u> Maximum (C) <u>\$3,000</u>
---	--

Sum of the Percentages for the Penalty Event (using the Violator Specific Factors)	Sum of %s (B) <u>+20%</u>
---	---------------------------

Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C - A])$ $P = 1 \{A + [B \times (C - A)]\}$
---	--

$$P = 1 \{ \$1,500 + [0.20 \times (\$3,000 - \$1,500)] \} = \underline{\$12,600}$$

**Penalty Amount for Penalty Event (P<sub>3</sub>) = \$12,600**



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**MONETARY BENEFIT OF NONCOMPLIANCE**  
LAC 33:I.705.G

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

**Justification/Explanation/Calculation of Benefit of Noncompliance**

The Department has determined that there is no benefit of non-compliance with regards to these violations.

**Total Monetary Benefit of Noncompliance (B<sub>3</sub>) = \$0**

**Total Penalty Amount for Penalty Event = P<sub>3</sub>+ B<sub>3</sub> = \$12,600**

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**Penalty Event #4 – Paragraph V** - A file review conducted by the Department on or about April 18, 2016, revealed that the Respondent did not submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0110183. LPDES permit LA0110183 expired September 30, 2015. The Respondent submitted an LPDES permit renewal application to the Department on or about May 20, 2015. The Respondent's failure to submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0110183 is a violation of LPDES permit LA0110183, (Standard Conditions for LPDES Permits, Sections A.2 and A.5.a), La. R.S: 30:2076 (A)(3), and LAC 33:IX.501.A.

#### **Violation Specific Factors**

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

**Justification:** The failure to submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0110183 did not present actual harm or substantial risk of harm to the environment or public health. The violation was administrative in nature.

##### **Nature and Gravity of the Violation: Minor**

**Justification:** The nature and gravity is deemed minor because substantial implementation of the requirements occurred. Specifically, the LPDES permit renewal application was due April 3, 2015. The Respondent submitted the LPDES permit renewal application on May 20, 2015, and LPDES permit LA0110183 was administratively continued. The Department reissued LPDES permit LA0110183 on February 25, 2016, with an effective date of April 1, 2016, and an expiration date of March 31, 2021.

#### **Violator Specific Factors**

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

1. The history of previous violations or repeated noncompliance.  
Adjustment = 0%

**Justification:** The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079** on June 17, 2016, which included a violation for the failure to submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0110183. The civil penalty for this violation, included in **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00079**, is being addressed in this penalty assessment.

2. The gross revenues generated by the Respondent.  
Adjustment = 0%

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Justification: No gross revenues were submitted by the Respondent. Dunn and Bradstreet, [www.dnb.com](http://www.dnb.com), lists the Respondent's annual revenue for 2019 as \$66.36 million dollars; therefore, it is viewed by the Department that the Respondent had sufficient revenue to comply with all applicable regulations and/or permit conditions and has the ability to pay a reasonable penalty.

3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = +10%

Justification: The Respondent is fully culpable for the violation.

4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
Adjustment = 0%

Justification: There were no documented damages caused by the noncompliance.

5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
Adjustment = 0%

Justification: The Respondent did not attempt to conceal the violation.

**Total Percentage for Violator Specific Adjustment Factors: +10%**

Penalty Range for the Penalty Event (Using the Violation Specific Factors and the Penalty Matrix)	Minimum (A) <u>\$100</u> Maximum (C) <u>\$500</u>
---	--

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

Formula(s) to obtain a penalty amount for each Penalty event	$P = A + (B \times [C-A])$ $P = 1 \{A + [B \times (C-A)]\}$
---	--

$$P = 1 \{ \$100 + [10\% \times (\$500 - \$100)] \} = \underline{\$140}$$

**Penalty Amount for Penalty Event (P<sub>4</sub>) = \$140**

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**MONETARY BENEFIT OF NONCOMPLIANCE**

LAC 33:I.705.G

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

**Justification/Explanation/Calculation of Benefit of Noncompliance**

The Department has determined that there is no benefit of non-compliance with regards to this violation.

**Total Monetary Benefit of Noncompliance (B<sub>4</sub>) = \$0**

**Total Penalty Amount for Penalty Event = P<sub>4</sub> + B<sub>4</sub> = \$140**

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**COMPUTATION OF RESPONSE COST**  
LAC33:I.705.H

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

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

Personnel (A)	No. of Hours (B)	Hourly Rate of Pay (C)	Direct Cost (D)	Approved Federal Rate (E)	Indirect Cost (F)	Subtotal (G)
<b>Enforcement Division – WE-CN-16-00079</b>						
Enforcement Writer – BKB	16	\$21.47	\$343.52	68.75%	\$236.17	\$579.69
Enforcement Supervisor - NZB	1	\$26.28	\$26.28	68.75%	\$18.07	\$44.35
Enforcement Analyst - VMT	0.50	\$18.69	\$9.35	68.75%	\$6.43	\$15.78
Enforcement Analyst - MDO	0.25	\$21.41	\$5.35	68.75%	\$3.68	\$9.03
Legal - TB	0.25	\$34.67	\$8.67	68.75%	\$5.96	\$14.63
Enforcement Manager - AM	1	\$35.46	\$35.46	68.75%	\$24.38	\$59.84
Enforcement Administrator - CJC	0.25	\$38.99	\$9.75	68.75%	\$6.70	\$16.45
Assistant Secretary - LI	0.25	\$49.04	\$12.26	68.75%	\$8.43	\$20.69
<b>Sub-Total Enforcement Costs:</b>						<b>\$ 760.46</b>
<b>Enforcement Division – WE-P-20-00753</b>						
Enforcement Writer - BKB	7	\$26.35	\$184.45	66.37%	\$122.42	\$306.87
Enforcement Supervisor - NZB	2	\$30.16	\$60.32	66.37%	\$40.03	\$100.35
Enforcement Analyst - MDO	1.75	\$25.53	\$44.68	66.37%	\$29.65	\$74.33
Legal - MD	1	\$46.26	\$46.26	66.37%	\$30.70	\$76.96
Enforcement Manager - AM	1	\$40.29	\$40.29	66.37%	\$26.74	\$67.03
Enforcement Administrator - CJC	0.75	\$46.98	\$35.24	66.37%	\$23.39	\$58.63
Assistant Secretary - LI	0.25	\$55.29	\$13.82	66.37%	\$9.17	\$22.99
<b>Sub-Total Enforcement Costs:</b>						<b>\$ 707.16</b>
<b>Total Enforcement Costs:</b>						<b>\$1,467.62</b>

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

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

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

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

Approved Federal Rate Effective July 1, 2020-June 30, 2021: 66.37%

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 (Ps)**.

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

If **Monetary Benefit of Noncompliance** is added:

$$P_s = (P_1 + B_1) + (P_2 + B_2) \dots$$

Event #	Penalty Event (P)	Benefit of Non-Compliance (B)	Total (P+B)
1	\$22,900	0	\$22,900
2	\$700	0	\$700
3	\$12,600	0	\$12,600
4	\$140	0	\$140
<b>Totals</b>	<b>\$36,340</b>	<b>0</b>	<b>\$36,340</b>

$$P_s = \$36,340.00$$

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

$$R_c = \underline{\$1,467.62}$$

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

$$(P_t) = P_s + R_c$$

**Penalty Total = \$37,807.62**