STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF: * Settlement Tracking No.

SA-WE-19-0002

WILDWOOD MHP, LLC

* Enforcement Tracking No.

AI # 186661 * WE-CN-15-01051

*

PROCEEDINGS UNDER THE LOUISIANA * ENVIRONMENTAL QUALITY ACT *

LA. R.S. 30:2001, <u>ET SEQ.</u> *

SETTLEMENT

The following Settlement is hereby agreed to between Wildwood MHP, LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a limited liability company that owns and/or operates a wastewater treatment plant located in Bethany, Caddo Parish, Louisiana ("the Facility").

 Π

On April 29, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-01051 (Exhibit 1).

Ш

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00), of which Four Hundred Fifty-Two and 12/100 Dollars (\$452.12) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

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

VI

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

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set

forth in La. R. S. 30:2025(E) of the Act.

VIII

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

IX

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

X

Payment is to be made in eleven (11) equal installments. The first installment of \$500.00 shall be paid within ten (10) days from notice of the Secretary's signature. The remaining ten (10) installments of \$500.00 each shall be paid monthly thereafter; all installments shall be paid within eleven months of the due date of the first installment. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

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

XII

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

WILDWOOD MHP, LLC

BY: Cocy Corall (Signature)	
Corey Donaldson (Printed)	
TITLE: Managing Member.	
THUS DONE AND SIGNED in duplicate original before me this day of day of	
Mal	
NOTARY PUBLIC (ID # ついいまと)	
NICOLAS LOVRIC COMM. #2212582 NOTARY PUBLIC - CALIFORNIA ORANGE COUNTY My Comm. Expires Sept. 25, 2021	
(stamped or printed)	
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY Aurelia S. Giacometta Secretary	
BY:	
Office of Environmental Compliance	7
THUS DONE AND SIGNED in duplicate original before me this day of, 20, at Baton Rouge, Louisiana.	
NOTARY PUBLIC (ID # 51205)	
DEIDRA JOHNSON NOTARY PUBLIC EAST BATON ROUGE PARISH LOUISIANA NOTARY ID NO. 51205	
(stamped or printed)	
Approved:	
Lourdes Iturralde, Assistant Secretary	

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION POST OFFICE BOX 4312

CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY



BATON ROUGE, LOUISIANA 70821-4312

Enforcement Tracking No.	WE-CN-15-01051	Certified Mail No.	7004 2510 0005 5763 1420
Agency Interest (AI) No.	186661	Contact Name	Melissa Sherman
Alternate ID No.	LAG560305	Contact Phone No.	225-219-3770
Respondent:	Wildwood Mobile Home Park, LLC	Facility Name:	Wildwood Mobile Home Park
	c/o Michael Banner	Physical Location:	9690 Highway 79
	Agent for Service of Process		
	2851 Johnston Street #507	City, State, Zip:	Bethany, LA 71007
	Lafayette, LA 70503	Parish:	Caddo

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

The Respondent owns and/or operates a wastewater treatment plant located at 9690 Highway 79, Bethany, Caddo Parish, Louisiana. Coverage under LAG560305 was issued on October 15, 2013. Under the terms and conditions of LPDES Permit LAG560305, the Respondent is permitted to discharge treated sanitary wastewater into unnamed creek, thence into Wallace Lake, all waters of the state.

	Date of Violation	Description of Violation
11.	Inspection(s) 2/7/2013	The Respondent caused and/or allowed the discharge of wastewater without a permit and/or other authority from the Department. Specifically, the facility was operating without a LPDES permit from May 2012 through October 15, 2013. The unauthorized discharges are in violation of La. R.S. 30:2075.
111.	Inspection(s) & File Review 9/9/2015 12/16/2015	The Respondent failed to submit Discharge Monitoring Reports (DMRs). Specifically, the Respondent did not submit DMRs since the issuance of LPDES permit LAG560305 on October 15, 2013, through present. (LAG560305 (Part 1, Section B, Schedue A and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a)
IV.	Inspection(s) 9/9/2015	The Respondent failed to sample the effluent from Outfall 001 on a monthly basis as required by LPDES Permit LAG560305. Specifically, the inspection revealed the facility has failed to collect a sample since the issuance of LPDES permit LAG560305 through present. (LAG560305 (Part II, Section N, Monitoring and Reporting Requirements and Part III Standard Conditions, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)
V.	Inspection(s) 9/9/2015	The Respondent failed to measure the flow of the discharge. Specifically, the inspection revealed the facility does not have a flow measurement system in place. (LAG560305 (Part II, Section B, Schedule A, Effluent Limitations and Monitoring Requirements and Part III, Standard Conditions, Section A.2 and C.6), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

ORDER

Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:

- To take, immediately upon receipt of this COMPLIANCE ORDER, any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting all of the violations described in the "Findings of Fact" portion.
- To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER, a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER. This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.
- To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER, properly completed DMRs for the monitoring periods of the last three (3) years mentioned in Paragraph'll of the "Findings of Fact" portion of this Order. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and certified. If no sampling or monitoring was conducted during a monitoring period, the Respondent should indicate this in the space provided for "Comment and Explanation of Any Violations."
- To submit a completed NetDMR Subscriber Agreement to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after receipt of this COMPLIANCE ORDER. The Subscriber Agreement shall be signed and dated with an original signature and submitted to the Enforcement Division. (NetDMR is accessed through: www.epa.gov/netdmr. For assistance establishing and maintaining a NetDMR account or for NetDMR training, see attached instructions or contact the Permit Compliance Unit at deqnetdmr@la.gov.)
 - To submit DMRs and associated reports electronically using NetDMR beginning with the first monitoring period after approval of the NetDMR Subscriber Agreement unless otherwise notified in writing by the Department.

RIGHT TO APPEAL

- The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER.
- II. The request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER 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

EXHIBIT

WE-CN-15-01051

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4.1					
	Interest Number, which are located in the upper right-	hand corner of the first page of this document and should be directed to			
·	the address specified in this document.				
	Upon the Respondent's timely filing a request for a he	aring, a hearing on the disputed issue of material fact or of law regarding			
10.	this compliance once may be scheduled by the Secretary of the Department. The hearing shall be governed by the Art of				
	I Montanistrative Procedure Act (ta. N.S. 49:950, et seg.)	. The Department may amend or supplement this continuence opposit			
	This COMPLIANCE OPPER shall become a first or feet	d an opportunity for the preparation of a defense for the hearing.			
IV.	request a hearing constitutes a volume of the Bearing	ment action unless the request for hearing is timely filed. Failure to timely			
1	Section 2050.4 of the Act for the violation(s) described h	ent's right to a hearing on a disputed issue of material fact or of law under			
———	The Respondent's failure to request a hearing as to file	ierein.			
	COMPLIANCE ORDER shall not preclude the Personale	an appeal or the Respondent's withdrawal of a request for hearing on this			
V.	addressing the same violation(s), although the Person	nt from contesting the findings of facts in any subsequent penalty action			
	permanent part of its compliance history.	dent is estopped from objecting to this COMPLIANCE ORDER becoming a			
VI.	Civil penalties of not more than thirty-two thousand five	e hundred dollars (\$32,500) may be assessed for each day of violation. The			
	Respondent's failure or refusal to comply with this COM	PLIANCE ORDER and the provisions herein will subject the Respondent to			
	possible enforcement procedures under La. R.S. 30:202	5, which could result in the assessment of a civil penalty in an amount of			
	indemore that may thousand dollars (\$50,000) for each	QAV OI CONTINUED VIOLATION OF NONCOMPLIANCE			
VII.	for each violation described herein, the Department re	serves the right to seek civil negation in any manner allowed by Law and			
	nothing herein shall be construed to preclude the right t	o seek such penalties.			
Up Hen		POTENTIAL PENALTY			
l.	Pursuant to La. R.S. 30:2050.3(8), you are hereby notifi	led that the issuance of a penalty assessment is being considered for the			
	worddongs described herein. Written comments may	De filed regarding the violation(s) and the contomplated name to the contomplated			
	erect to applying comments, it is requested that they be si	UDMITTED Within ten (10) days of receipt of this notice			
11.	rifor to the issuance of additional appropriate enforcem	ient action(s), you may request a mosting with the Department			
	any magazing circumstances concerning the violation(s). If you would like to have such a mosting whose annual sales				
111.	average of 552-512-2440 Auritin (Elt (TO) 09A2 Of Jecoldi	COLUMN NOTICE OF POTENTIAL DEMALTY			
111.	henefits of noncompliance to determine whether	a) to consider the gross revenues of the Respondent and the monetary			
	Respondent's most current annual gross remains states	alty will be assessed and the amount of such penalty. Please forward the			
	for the cited violation(s) to the above named contact	ment along with a statement of the monetary benefits of noncompliance			
	for the cited violation(s) to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no				
	monetary benefits have been gained, you are to fully jus	tify that statement			
IV.	This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF	POTENTIAL PENALTY is effective upon receipt			
101111					
E EIMINA	CUNTACIS AND SU	BMITTALOEINFORMATION			
	ement Division:	Hearing Requests:			
Louisia	ana Department of Environmental Quality	Department of Environmental Quality			
	of Environmental Compliance	Office of the Secretary			
	Enforcement Division	Post Office Box 4302			
1	0X 4312	Baton Rouge, Louisiana 70821-4302			
	Rouge, LA 70821 Melissa Sherman	Attn: Hearings Clerk, Legal Division			
Attii.	istensed Sifetuidi	Re: Enforcement Tracking No. WE-CN-15-01051			
		Agency Interest No. 186661			
Permit	Division (If necessary):	Physical Address (if hand delivered):			
	tment of Environmental Quality				
Office of Environmental Services		Department of Environmental Quality			
Post Office Box 4313 Baton Rouge, LA 70821-4313		602 N Fifth Street			
		Baton Rouge, LA 70802			
7.000	Water Permits Division				
\$10500000	Commence of the commence of th				
	HOW TO REQUEST CLOSURE OF T	HIS CONSOLIDATED COMPLIANCE ORDER			
	ANOTICE OF	ROTENTIALIRENALTY			
• To	appeal the CONSOLIDATED COMPLIANCE ORDER AND	NOTICE OF POTENTIAL DENALTY the Poster of the			
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PE/	NALTY.	THE THE THE THE MOTION OF POTENTIAL			

- PENALTY.
- To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified.
 - o The COMPLIANCE ORDER will not be closed if the Respondent owes outstanding fees or penalties to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.
- To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
 - o The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
 - The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
 - The settlement offer amount may be entered on the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent must include a justification of the offer.
 - DO NOT submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

The NOTICE OF POTENTIAL PENALTY will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Melissa Sherman at 225-219-3770 or melissa.sherman@la.gov.

Assistant Secretary

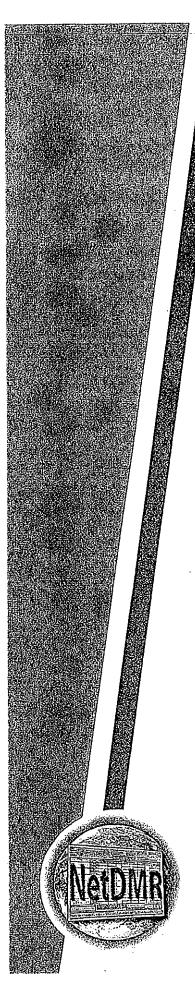
Office of Environmental Compliance

- Attachment(s)
 Request to Close
 NetDMR Flyer
- Settlement Agreement Flyer

WE-CN-15-01051

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LOUISIANA DEPARTMENT OF OFFICE OF ENVIRONMENTAL		JAUTY		/-	- 10
ENFORCEMENT DIVISION		TED COMPLIANCE	E ORDER &	(1	
POST OFFICE BOX 4312	NOTICE	OF POTENTIAL P	ENALTY	7	<u>DFO</u>
BATON ROUGE, LOUISIANA	70821-4312	REQUEST TO CLOS	SE .		LOUISIANA
Enforcement Tracking No.	WE-CN-15-01051		Contact Name	Melissa Sherman	***************************************
Agency Interest (AI) No.	186661		Contact Phone No.	225-219-3770	
Alternate ID No.	LAG560305				
Respondent:	Avalon Properties		acility Name:	Wildwood Mobile	
	c/o Shavis Speight		Physical Location:	9690 Highway 79	
	Agent for Service of 9690 Highway 79		City, State, Zip:	Bethany, LA 7100	7
	Bethany, LA 71007		Parish:	Caddo	
	Charles and Albanda Santana	STATEMENT OF G	OMPLIANCE		n i ja
an managan na banan ini ang ana ang ang ang ang ang ang ang ang	STATEMENT OF CON	MPLIANCE	States Sales and Asia Control	Date Completed	Copy Attached?
A written report was submit			"Order" portion o		copy Attached;
the COMPLIANCE ORDER.			•		
All necessary documents wer COMPLIANCE ORDER in acco COMPLIANCE ORDER. Submitted DMRs and associa Paragraph V of the "Order" p	ordance with Paragraph ted reports electronical ortion of the COMPLIA	h(s) III & IV of the "O ally using NetDMR in a NCE ORDER.	rder" portion of the accordance with		
All items in the "Findings of F the facility is being operated					
of the COMPLIANCE ORDER.			,		
	SI	ETTLEMENT OFFE	R (OPTIONAL)		
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	not interested in enter right to assess civil pe				understanding that the
	ested in entering into				(WE-CN-15-01051), the to set up a meeting to
	terested in enterin which shall Inc	ig into settlement	negotiations wi		(WE-CN-15-01051), the and offers to pay -compliance.
Beneficial En DO NOT SUB	vironmental Project (B	E OFFER WITH THIS F	onal)= \$ ORM- the Departm	ent will review the sett	lement offer and notify
The Respondent ha		ons noted in NOTICE	OF POTENTIAL PE		51) and has attached a
justification of its of	ner and a description of	A any bers il incidded	i in setuement one	i. Nemocial de Robert e la Chila di Pierra	varan parak ili dinangan san .
		CERTIFICATION S	TATEMENT		engapyaga ang kabupatèn ang Manggapyaga Kabupatèn Ang Kabupatèn
I certify, under provisions i information and belief forr above, are true, accurate, a or any other facility I own Respondent.	ned after reasonable nd complete. I also cer	inquiry, the statem tify that I do not owe	ents and informat coutstanding fees	ion attached and the or penalties to the Dep	compliance statement artment for this facility
Respondent's Signa	ature	Respondent's Print	ted Name	Respond	lent's Title
Respor	dent's Physical Addre	SS	Responde	nt's Phone #	Date
	MAIL COMPLE	ETED DOCUMENT	TO THE ADDRES	SS BELOW:	
Louisiana Department of Env Office of Environmental Com Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821	•				
Attn: Melissa Sherman					

If you have questions or need more information, you may contact Melissa Sherman at 225-219-3770 or melissa.sherman@la.gov.







WHAT IS NETDMR?

NetDMR is a Web-based tool that allows facilities to electronically sign and submit LPDES discharge monitoring reports (DMRs) to the LDEQ.

HOW DO I USE NETDMR?

- 1. Register in NetDMR
- 2. Submit Subscriber Agreement to LDEQ
- 3. Receive approval by LDEQ
- 4. Sign and Submit On-line

Training is offered by both LDEQ and EPA. Please check the LDEQ NetDMR Training website at http://www.deq.louisiana.gov/netdmr for training materials and current information offered by LDEQ. Information about EPA's training can be found at www.epa.gov/netdmr

HOW DO I REGISTER AND SUBMIT A SUBSCRIBER AGREEMENT?

(The first person to register must be an authorized signatory.)

- 1. Go to NetDMR website at https://netdmr.epa.gov/netdmr
- 2. Choose "Louisiana DEQ" as the Regulatory Authority from the drop-down list
- 3. Click the "Create a NetDMR Account" link in the login box
- 4. Complete the account information as required
- a. Type of user must be "Permittee User"
 - b. Security answers must be unique and are case sensitive
- 5. Click "Submit" and confirm account information
- 6. Click the link within the verification email that has been sent to your email address
- 7. Create password by following instructions on the page
- 8. Login to NetDMR
- 9. Click "Request Access" link in the top left corner.
- Enter Permit Number and click "Update"
- 11. Select "Signatory" role and click "Add Request"
- 12. Click "Submit" and confirm
- 13. Provide Signatory Information, click "Submit" and confirm
- 14. Click button to print Subscriber Agreement
- 15. Mail in signed, original Subscriber Agreement to LDEQ for approval

If you have additional questions, please email dequetdmr@la.gov.



WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

	NATURE AND GRAVITY OF THE VIOLATION			
		MAJOR	MODERATE	MINOR
IMPACT H OR	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
E OF RISK OF IUMAN HEAL PROPERTY	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
DEGRE TO:	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred. Minor: Violations that result in some deviation from the Intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

- 1. history of previous violations or repeated noncompliance:
- 2. gross revenues generated by the respondent;
- 3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
- 4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
- whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.





Given the previous information, the following formula is used to obtain a penalty amount.

Penalty Event Total = Penalty Event Minimum + (Adjustment Percentage x [Penalty Event Maximum - Penalty Event Minimum])

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement. Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit

and is otherwise fully consistent with the intent of the BEP regulations. WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in EDMS using the following filters
Settlement Agreements	Media: Air Quality, Function: Enforcement: Description: Settlement
	specific examples can be provided upon request
Penalty Determination Method Beneficial Environmental Projects	LAC 33:I Chapter 7
•	FAQs
Judicial Interest	provided by the Louisiana State Bar Association

