

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BR PORT SERVICES, LLC

AI # 191451

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-WE-20-0024
*
* Enforcement Tracking No.
* WE-CN-19-00597
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SETTLEMENT

The following Settlement is hereby agreed to between BR Port Services, 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 an oil storage terminal located in Port Allen, West Baton Rouge Parish, Louisiana (“the Facility”).

II

On September 18, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-19-00597 (Exhibit 1).

III

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

IV

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

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00), of which Seven Hundred Eighty and 36/100 Dollars (\$780.36) 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 permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

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

VII

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

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

VIII

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

IX

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

X

Payment is to be made within twenty (20) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled

in accordance with the terms of this Settlement.

XII

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

BR PORT SERVICES, LLC

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

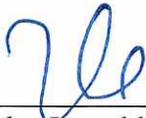
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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:  _____
Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312				CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY		 DEQ LOUISIANA	
Enforcement Tracking No.	WE-CN-19-00597	Certified Mail No.	7018 1130 0001 5655 1765				
Agency Interest (AI) No.	191451	Contact Name	Christine Mayeux Cosnahan				
Alternate ID No.	LA0127124	Contact Phone No.	(225) 219-3767				
Respondent:	BR Port Services, LLC	Facility Name:	Baton Rouge Terminal				
	c/o C. T. Corporation System	Physical Location:	2020 North Line Road				
	Agent for Service of Process	City, State, Zip:	Port Allen, LA 70767				
	3867 Plaza Tower Drive Baton Rouge, LA 70816	Parish:	West Baton Rouge				
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.							
I.	The Respondent owns and/or operates an oil storage terminal located at 2020 North Line Road, Port Allen, West Baton Rouge Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0127124 on April 6, 2016, with an effective date of April 6, 2016. Major permit modifications were issued on June 9, 2017 and June 14, 2019 with effective dates of July 1, 2017 and July 1, 2019. LPDES Permit LA0127124 will expire on April 5, 2021. Under the terms and conditions of LPDES Permit LA0127124, the Respondent is permitted to discharge treated sanitary wastewater, boiler blowdown, steam condensate, miscellaneous non-stormwater discharges and stormwater runoff to local drainage, thence into Hewes Canal, thence into the Intracoastal Waterway, all waters of the state.						
	Date of Violation	Description of Violation					
II.	File Review 7/8/2019	The Respondent failed to comply with LPDES permit LA0127124. Specifically, a review of Discharge Monitoring Reports (DMRs) between September 2016 and March 2019, revealed that the Respondent reported exceedances of permit effluent limitations for pH, TSS, Oil & Grease, Fecal coliform, and CBOD [see attachment Table 1]. (LA0127124 (Effluent Limitations and Monitoring Requirements, Page 1 of 3 and Standard Conditions, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)					
III.	File Review 7/8/2019	The Respondent failed to comply with LPDES permit LA0127124. Specifically, the Respondent failed to sample as required by LPDES Permit LA0127124 [see attachment Table 2]. (LA0127124 (Effluent Limitations and Monitoring Requirements, Page 1 of 3 and Standard Conditions, Section A.2), 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:							
I.	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 <u>all</u> of the violations described in the "Findings of Fact" portion.						
II.	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.						
III.	In the event the Respondent believes that complete correction of the above-cited deficiencies is not physically possible within thirty (30) days, the Respondent shall submit, within thirty (30) days after receipt of this COMPLIANCE ORDER, a comprehensive plan for the expeditious elimination and prevention of such noncomplying discharges. Such plan shall provide for specific corrective actions taken and shall include a critical path schedule for the achievement of compliance within the shortest time possible.						
RIGHT TO APPEAL							
I.	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 Interest Number, which are located in the upper left-hand corner of the first page of this document and should be directed to the address specified in this document.						
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 COMPLIANCE ORDER may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law's (DAL) Procedural Rules. The Department may amend or supplement this COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.						
IV.	This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.						

V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this COMPLIANCE ORDER shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.	
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.	
VII.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.	
NOTICE OF POTENTIAL PENALTY		
I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.	
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Christine Mayeux Cosnahan at (225) 219-3767 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY .	
III.	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.	
IV.	This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.	
CONTACTS AND SUBMITTAL OF INFORMATION		
Enforcement Division:		Hearing Requests:
Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Christine Mayeux Cosnahan		Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-19-00597 Agency Interest No. 191451
Water Permits Division (if necessary):		Physical Address (if hand delivered):
Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division		Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY		
<ul style="list-style-type: none"> • To appeal the CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY. • To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified. <ul style="list-style-type: none"> ○ Before requesting closure of the COMPLIANCE ORDER portion, please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. • To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. <ul style="list-style-type: none"> ○ 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. ○ Before requesting closure of the NOTICE OF POTENTIAL PENALTY portion, please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. 		

If you have questions or need more information, you may contact Christine Mayeux Cosnahan at (225) 219-3767 or christine.cosnahan@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 9-18-19

cc: Jeffrey Gifford
BR Port Services, LLC
919 Milam, Suite 2100
Houston, TX 77002

Attachment(s)

- Table 1
- Request to Close

TABLE 1

MONITORING PERIOD END DATE	OUTFALL	PARAMETER	PERMIT LIMIT	REPORTED VALUE
12/31/2016	002-A	pH max	9 SU	10.9 SU
		TSS mo avg	30 mg/L	210 mg/L
		TSS daily max	100 mg/L	210 mg/L
01/31/2017	002-A	TSS mo avg	30 mg/L	80.5 mg/L
02/28/2017	002-A	Oil & Grease daily max	15 mg/L	40.2 mg/L
05/31/2017	002-A	TSS mo avg	30 mg/L	142 mg/L
		TSS daily max	100 mg/L	142 mg/L
06/30/2017	002-A	TSS mo avg	30 mg/L	208 mg/L
		TSS daily max	100 mg/L	208 mg/L
07/31/2017	002-A	TSS mo avg	30 mg/L	235.4 mg/L
		TSS daily max	100 mg/L	235.4 mg/L
08/31/2017	002-A	TSS mo avg	30 mg/L	79.2 mg/L
10/31/2017	002-A	TSS mo avg	30 mg/L	1890 mg/L
		TSS daily max	100 mg/L	1890 mg/L
11/30/2017	002-A	TSS mo avg	30 mg/L	924 mg/L
		TSS daily max	100 mg/L	924 mg/L
12/31/2017	001-S	CBOD mo avg	30 mg/L	234 mg/L
		CBOD daily max	45 mg/L	234 mg/L
		TSS mo avg	30 mg/L	65 mg/L
		TSS daily max	45 mg/L	65 mg/L
		Fecal coliform mo avg	200 CFU/100mL	20000 CFU/100mL
		Fecal coliform daily max	400 CFU/100mL	20000 CFU/100mL
05/31/2018	002-A	TSS mo avg	30 mg/L	87.8 mg/L
		Oil & Grease daily max	15 mg/L	38.8 mg/L
06/30/2018	001-S	CBOD mo avg	30 mg/L	316 mg/L
		CBOD daily max	45 mg/L	316 mg/L
		TSS mo avg	30 mg/L	173 mg/L
		TSS daily max	45 mg/L	173 mg/L

TABLE 2

MONITORING PERIOD END DATE	OUTFALL	PARAMETER	REPORTED INFORMATION
09/30/2016	003-Q	All parameters	analysis not conducted
	004-Q	All parameters	analysis not conducted
10/31/2016	002-A	Flow mo avg	analysis not conducted
		Flow daily max	analysis not conducted
12/31/2016		Flow mo avg	analysis not conducted
		Flow daily max	analysis not conducted
	003-Q	Flow mo avg	analysis not conducted
		Flow daily max	analysis not conducted
	004-Q	Flow mo avg	analysis not conducted
		Flow daily max	analysis not conducted
03/31/2017	003-Q	Benzene daily max	analysis not conducted
		BTEX daily max	analysis not conducted
	004-Q	Benzene daily max	analysis not conducted
		BTEX daily max	analysis not conducted
06/30/2017	004-Q	Benzene daily max	data not available
09/30/2017	002-A	All parameters	analysis not conducted
	003-Q	All parameters	analysis not conducted
	004-Q	All parameters	analysis not conducted
12/31/2017	002-A	All parameters	analysis not conducted
	003-Q	All parameters	analysis not conducted
	004-Q	All parameters	analysis not conducted
01/31/2018	002-A	All parameters	analysis not conducted
02/28/2018	002-A	All parameters	analysis not conducted
03/31/2018	002-A	All parameters	analysis not conducted
09/30/2018	003-Q	Benzene daily max	data not available
		BTEX daily max	data not available
	004-Q	Benzene daily max	data not available
		BTEX daily max	data not available
12/31/2018	002-A	All parameters	analysis not conducted

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER & POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE				
Enforcement Tracking No.	WE-CN-19-00597	Contact Name	Christine Mayeux Cosnahan	
Agency Interest (AI) No.	191451	Contact Phone No.	(225) 219-3767	
Alternate ID No.	LA0127124			
Respondent:	BR Port Services, LLC c/o C. T. Corporation System Agent for Service of Process 3867 Plaza Tower Drive Baton Rouge, LA 70816	Facility Name: Physical Location: City, State, Zip: Parish:	Baton Rouge Terminal 2020 North Line Road Port Allen, LA 70767 West Baton Rouge	
STATEMENT OF COMPLIANCE				
STATEMENT OF COMPLIANCE		Date Completed	Copy Attached?	
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER .				
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER . Final compliance was achieved as of:				
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-19-00597), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-19-00597), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-19-00597) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
CERTIFICATION STATEMENT				
I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.				
Respondent's Signature		Respondent's Printed Name	Respondent's Title	
Respondent's Physical Address		Respondent's Phone #	Date	
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Christine Mayeux Cosnahan				

If you have questions or need more information, you may contact Christine Mayeux Cosnahan at (225) 219-3767 or christine.cosnahan@la.gov.