

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BASIN FLEETING, INC.

AI # 104235

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

\* Settlement Tracking No.  
\* SA-WE-20-0107  
\*  
\* Enforcement Tracking Nos.  
\* WE-CN-15-00521  
\* WE-CN-19-00425  
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SETTLEMENT

The following Settlement is hereby agreed to between Basin Fleeting, 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 towing and tugboat services and barge maintenance facility located in Berwick, St. Mary Parish, Louisiana (“the Facility”).

II

On May 11, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-00521 (Exhibit 1).

On January 10, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-19-00425 (Exhibit 2).

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 ONE HUNDRED AND NO/100 DOLLARS (\$15,100.00), of which One Thousand Nine Hundred and 89/100 Dollars (\$1,900.89) 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 Orders & Notices 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 St. Mary 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 ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (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.

**BASIN FLEETING, INC.**

BY: *John Clark*  
(Signature)

John Clark  
(Printed)

TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 13<sup>th</sup> day of May, 20 21, at Berwick, LA.

*Judy M Luke*  
NOTARY PUBLIC (ID # 62970)

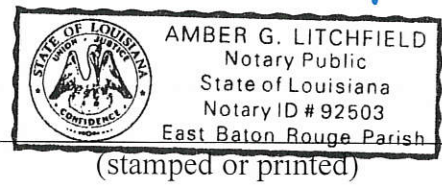
Judy M Luke  
(stamped or printed)

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

BY: *[Signature]*  
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance


THUS DONE AND SIGNED in duplicate original before me this 23<sup>rd</sup> day of June, 20 21, at Baton Rouge, Louisiana.

*[Signature]*  
NOTARY PUBLIC (ID # 92503)



Approved: *[Signature]*  
Lourdes Iturralde, Assistant Secretary



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312				<b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b>			
Enforcement Tracking No.	WE-CN-15-00521	Certified Mail No.	7004 2510 0006 3853 2912				
Agency Interest (AI) No.	104235	Contact Name	Richard Ober, Jr.				
Alternate ID No.	LA0119946	Contact Phone No.	(225) 219-3135				
Respondent:	Basin Fleeting, Inc.	Facility Name:	Basin Fleeting, Inc.				
	c/o Mikel R. Clark	Physical Location:	1436 River Road				
	Agent for Service of Process	City, State, Zip:	Berwick, Louisiana 70342				
	3105 First Street Berwick, Louisiana 70342	Parish:	St. Mary				

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.*

<b>I.</b>	The Respondent owns and/or operates a towing and tugboat services and barge maintenance facility located at or near 1436 River Road in Berwick, St. Mary Parish, Louisiana. LPDES Permit LA0119946 was issued to the Respondent with an effective date of July 1, 2010, and an expiration date of June 30, 2015. LPDES Permit LA0119946 was administratively continued. Under the terms and conditions of LPDES Permit LA0119946, the Respondent is permitted to discharge incoming ballast and void water, treated sanitary wastewater and stormwater runoff to the Lower Atchafalaya River, waters of the state.
	<b>Description of Violation</b>
<b>II.</b>	Inspection(s) 1/27/2015 The Respondent failed to sample the effluent from Outfall 002 on a semiannual basis as required by LPDES Permit LA0119946. Specifically, review of Discharge Monitoring Reports (DMRs) for Outfall 002 (treated sanitary wastewater) revealed that according to the frequency of analysis indicated on the DMR, the Respondent was sampling on an annual basis and not on a semiannual basis as required by LPDES permit LA0119946. Based on the DMRs, sampling was performed once in the year 2011; none in 2012; once in 2013; and once in 2014. (LPDES Permit LA0119946 (Part I, Effluent and Monitoring Requirements (Outfall 002), page 3 of 3 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)
<b>III.</b>	File Review 3/14/2016 The Respondent failed to comply with LPDES permit LA0119946. Specifically, the Respondent failed to submit semiannual Discharge Monitoring Reports (DMRs) for Outfall 002 (treated sanitary wastewater) for each of the semiannual monitoring periods during the time period of January 2011 through December 2015. Instead, the Respondent submitted annual DMRs for the calendar years during the time period of January 2011 through December 2014. No semiannual DMRs were received for Outfall 002 for the monitoring periods of January 2015 through June 2015 and July 2015 through December 2015. (LPDES Permit LA0119946 (Part II, Section Q.2 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a)
<b>IV.</b>	Inspection(s) 1/27/2015 File Review 3/14/2016 The Respondent failed to comply with LPDES permit LA0119946. Specifically, during the period of January 2011 through December 2014, the Respondent reported exceedances of permit effluent limitations for total suspended solids (TSS) and fecal coliform for Outfall 002 (treated sanitary wastewater). For Outfall 001 (discharge of incoming ballast water and void water), the Respondent reported exceedances of permit effluent limitations for chemical oxygen demand (COD) and pH. [See Attachment 1] (LPDES permit LA0119946 (Part I, Effluent and Monitoring Requirements, pages 2 and 3 of 3 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)
<b>V.</b>	Inspection(s) 1/27/2015 The Respondent failed to implement the Stormwater Pollution Prevention Plan (SWPPP). Specifically, no annual facility site inspections were conducted. (LPDES permit LA0119946 (Part II, Section P.4.a and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)
<b>VI.</b>	Inspection(s) 1/27/2015 The Respondent failed to comply with LPDES permit LA0119946. For incoming ballast water and/or void water, the Respondent failed to record in a daily operating log, the volume of all such ballast water discharges, the date of the discharge and the name of the vessel. A copy of the daily operating log was not submitted to the Department quarterly with the facility's DMRs. (LPDES permit LA0119946 (Part II, Section L and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)
<b>VII.</b>	Inspection(s) 1/27/2015 The Respondent failed to have adequate quality assurance procedures to ensure that the correct analysis was performed for the sample taken. Specifically, the Respondent explained on its DMR for the period of January 2014 through December 2014 that a sample was taken for the treated sanitary wastewater outfall and was submitted to the lab. However, the lab tested the sample for ballast water instead of treated sanitary wastewater. The Respondent indicated on the DMR that steps had been taken to ensure the correct analysis is taken in the future. (LPDES permit LA0119946 (Part III, Sections A.2 and C.5.c), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E)
<b>VIII.</b>	File Review 3/14/2016 The Respondent failed to comply with LPDES permit LA0119946. Specifically, the Respondent failed to report flow on the DMRs for August 2011 and November 2011 for Outfall 001. (LPDES permit LA0119946 (Part II, Section Q and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.d)
<b>IX.</b>	File Review 3/14/2016 The Respondent failed to comply with LPDES permit LA0119946. Specifically, the Respondent failed to report other noncompliance at the time DMRs were submitted. The DMR for Outfall 001 for the monitoring period of November 2011 indicated six (6) excursions and the DMR for December 2011 indicated three (3) excursions. There was no noncompliance report submitted with each of the DMRs. (LPDES permit LA0119946 (Part III, Sections A.2 and D.7), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.7)

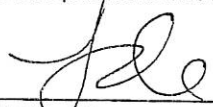


X.	<p><b>File Review</b> 3/14/2016</p>	<p>The Respondent failed to comply with LPDES permit LA0119946. Specifically, the Respondent failed to submit monthly DMRs for Outfall 001 for January 2011; February 2011; March 2011; July 2012; August 2012; September 2012; March 2013; August 2013; September 2013; October 2013; April 2014; May 2014; June 2014; September 2014; April 2015; May 2015; June 2015; July 2015; August 2015; September 2015; October 2015; November 2015; and December 2015. The Department received a single quarterly DMR for the months of January, February, and March 2015 instead of the required three (3) monthly DMRs. (LPDES permit LA0119946 (Part II, Section Q.1 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a)</p>
<b>ORDER</b>		
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 <b>COMPLIANCE ORDER</b> , 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 <b>COMPLIANCE ORDER</b> , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this <b>COMPLIANCE ORDER</b> . This report and all other reports or information required to be submitted to the Enforcement Division by this <b>COMPLIANCE ORDER</b> shall be submitted to the Department at the address specified in this document.
III.		To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , properly completed DMRs for the monitoring periods of the last three (3) years mentioned in Paragraphs III and X 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."
IV.		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 <b>COMPLIANCE ORDER</b> . The Subscriber Agreement shall be signed and dated with an original signature and submitted to the Enforcement Division. (NetDMR is accessed through: <a href="http://www.epa.gov/netdmr">www.epa.gov/netdmr</a> . For assistance establishing and maintaining a NetDMR account or for NetDMR training, see attached instructions or contact the Permit Compliance Unit at <a href="mailto:deqnetdmr@la.gov">deqnetdmr@la.gov</a> .)
V.		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.
<b>RIGHT TO APPEAL</b>		
I.		The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this <b>COMPLIANCE ORDER</b> . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> .
II.		The request for an adjudicatory hearing shall specify the provisions of the <b>COMPLIANCE ORDER</b> on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-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 <b>COMPLIANCE ORDER</b> may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.). The Department may amend or supplement this <b>COMPLIANCE ORDER</b> prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
IV.		This <b>COMPLIANCE ORDER</b> shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.
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 <b>COMPLIANCE ORDER</b> shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this <b>COMPLIANCE ORDER</b> becoming a permanent part of its compliance history.
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 <b>COMPLIANCE ORDER</b> and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.
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.
<b>NOTICE OF POTENTIAL PENALTY</b>		
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 Richard Ober, Jr. at (225) 219-3135 within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .
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 <b>NOTICE OF POTENTIAL PENALTY</b> . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement.
IV.		This <b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> is effective upon receipt.



<b>CONTACTS AND SUBMITTAL OF INFORMATION</b>	
<b>Enforcement Division:</b> Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.	<b>Hearing Requests:</b> Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-15-00521 Agency Interest No. 104235
<b>Permit Division (if necessary):</b> Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	<b>Physical Address (if hand delivered):</b> Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
<b>HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b>	
<ul style="list-style-type: none"> <li>• To appeal the <b>CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY</b>, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this <b>CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY</b>.</li> <li>• To request closure of the <b>COMPLIANCE ORDER</b> portion, the Respondent must demonstrate compliance with the "Order" portion of this <b>COMPLIANCE ORDER</b> by completing the attached "<b>CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE</b>" form and returning it to the address specified.                         <ul style="list-style-type: none"> <li>○ The <b>COMPLIANCE ORDER</b> 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 <a href="mailto:_DEQ-WWWFinancialServices@la.gov">_DEQ-WWWFinancialServices@la.gov</a> to determine if you owe outstanding fees.</li> </ul> </li> <li>• To expedite closure of the <b>NOTICE OF POTENTIAL PENALTY</b> 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"> <li>○ The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7,</li> <li>○ 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.</li> <li>○ The settlement offer amount may be entered on the attached "<b>CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE</b>" form. The Respondent must include a justification of the offer.</li> <li>○ <b>DO NOT</b> 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.</li> <li>○ The <b>NOTICE OF POTENTIAL PENALTY</b> 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 <a href="mailto:_DEQ-WWWFinancialServices@la.gov">_DEQ-WWWFinancialServices@la.gov</a> to determine if you owe outstanding fees.</li> </ul> </li> </ul>	

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or [richard.ober@la.gov](mailto:richard.ober@la.gov).


  
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 Lourdes Iturralde  
 Assistant Secretary  
 Office of Environmental Compliance

Date: 5-11-16

cc: Mr. John Clark, General Manager  
 Basin Fleeting, Inc.  
 Post Office Box 130  
 Berwick, Louisiana 70342

Attachment(s)  
 - Request to Close  
 - Attachment 1  
 - NetDMR brochure



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-15-00521	Contact Name	Richard Ober, Jr.
Agency Interest (AI) No.	104235	Contact Phone No.	(225) 219-3135
Alternate ID No.	LA0119946		
Respondent:	Basin Fleeting, Inc.	Facility Name:	Basin Fleeting, Inc.
	c/o Mikel R. Clark	Physical Location:	1436 River Road
	Agent for Service of Process		
	3105 First Street	City, State, Zip:	Berwick, Louisiana 70342
	Berwick, Louisiana 70342	Parish:	St. Mary
<b>STATEMENT OF COMPLIANCE</b>			
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 necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs III and IV of the "Order" portion of the COMPLIANCE ORDER.			
Submitted DMRs and associated reports electronically using NetDMR in accordance with Paragraph V 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:			
<b>SETTLEMENT OFFER (OPTIONAL)</b>			
<i>(check the applicable option)</i>			
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-15-00521), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-15-00521), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$_____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$_____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$_____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</b></li> </ul>		
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-15-00521) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.		
<b>CERTIFICATION STATEMENT</b>			
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
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>			
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.			

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

## Attachment 1

## Effluent Exceedances

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
January 2011- December 2011	002	TSS (monthly average)	30 mg/L	466 mg/L
		TSS (daily maximum)	45 mg/L	466 mg/L
April 2012	001	COD (daily maximum)	250 mg/L	315 mg/L
January 2012	001	pH (maximum)	9 standard units	10.25 standard units
January 2013- December 2013	002	TSS (monthly average)	30 mg/L	41 mg/L
		Fecal Coliform (monthly average)	200 colonies/100 mL	210 colonies/100 mL



*The attached enforcement action requires the use of NetDMR*

## 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](http://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
10. 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 [deqnetdmr@la.gov](mailto:deqnetdmr@la.gov).







<b>II.</b>	To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this <b>COMPLIANCE ORDER</b> . This report and all other reports or information required to be submitted to the Enforcement Division by this <b>COMPLIANCE ORDER</b> shall be submitted to the Department at the address specified in this document.
<b>III.</b>	To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , properly completed DMRs for the monitoring periods of the last three (3) years mentioned in Paragraph III of the "Findings of Fact" portion of this Order. Copies of the daily operating logs shall also be submitted as mentioned in Paragraph VII 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."

**RIGHT TO APPEAL**

<b>I.</b>	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this <b>COMPLIANCE ORDER</b> . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> .
<b>II.</b>	The request for an adjudicatory hearing shall specify the provisions of the <b>COMPLIANCE ORDER</b> on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper left-hand corner of the first page of this document and should be directed to the address specified in this document.
<b>III.</b>	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this <b>COMPLIANCE ORDER</b> may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law's (DAL) Procedural Rules. The Department may amend or supplement this <b>COMPLIANCE ORDER</b> prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
<b>IV.</b>	This <b>COMPLIANCE ORDER</b> shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.
<b>V.</b>	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this <b>COMPLIANCE ORDER</b> shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this <b>COMPLIANCE ORDER</b> becoming a permanent part of its compliance history.
<b>VI.</b>	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this <b>COMPLIANCE ORDER</b> and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.
<b>VII.</b>	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

**NOTICE OF POTENTIAL PENALTY**

<b>I.</b>	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.
<b>II.</b>	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Richard Ober, Jr. at (225) 219-3135 within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .
<b>III.</b>	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
<b>IV.</b>	This <b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> is effective upon receipt.

**CONTACTS AND SUBMITTAL OF INFORMATION**

<b>Enforcement Division:</b> Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.	<b>Hearing Requests:</b> Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-19-00425 Agency Interest No. 104235
<b>Water Permits Division (if necessary):</b> Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	<b>Physical Address (if hand delivered):</b> Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802



**HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY**

- 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.
  - 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](mailto:_DEQ-WWWFinancialServices@la.gov) to determine if you owe outstanding fees.
- To expedite closure of the **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
  - The Department assesses civil penalties based on LAC 33:I.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](mailto:_DEQ-WWWFinancialServices@la.gov) to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or [richard.ober@la.gov](mailto:richard.ober@la.gov).

\_\_\_\_\_  
Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

Date: 1-10-2020

cc: Mr. Ross Clark, General Manager  
Basin Fleeting, Inc.  
Post Office Box 130  
Berwick, Louisiana 70342

- Attachment(s)
- Request to Close
  - Attachment 1
  - Attachment 2
  - Attachment 3
  - Settlement Brochure

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION <b>CONSOLIDATED COMPLIANCE ORDER &amp;</b> POST OFFICE BOX 4312 <b>NOTICE OF POTENTIAL PENALTY</b> BATON ROUGE, LOUISIANA 70821-4312 <b>REQUEST TO CLOSE</b>					
Enforcement Tracking No.	WE-CN-19-00425	Contact Name	Richard Ober, Jr.		
Agency Interest (AI) No.	104235	Contact Phone No.	(225) 219-3135		
Alternate ID No.	LA0119946				
Respondent:	Basin Fleeting, Inc.	Facility Name:	Berwick Facility		
	c/o Mikel R. Clark	Physical Location:	1436 River Road		
	Agent for Service of Process				
	1064 Susan Court	City, State, Zip:	Berwick, LA 70342		
	Morgan City, LA 70380	Parish:	St. Mary		
<b>STATEMENT OF COMPLIANCE</b>					
<b>STATEMENT OF COMPLIANCE</b>		<b>Date Completed</b>	<b>Copy Attached?</b>		
A written report was submitted in accordance with Paragraph II of the "Order" portion of the <b>COMPLIANCE ORDER</b> .					
All necessary documents were submitted to the Department within 30 days of receipt of the <b>COMPLIANCE ORDER</b> in accordance with Paragraph III of the "Order" portion of the <b>COMPLIANCE ORDER</b> .					
All items in the "Findings of Fact" portion of the <b>COMPLIANCE ORDER</b> were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the <b>COMPLIANCE ORDER</b> . Final compliance was achieved as of:					
<b>SETTLEMENT OFFER (OPTIONAL)</b>					
<i>(check the applicable option)</i>					
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.				
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-19-00425)</b> , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.				
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-19-00425)</b> , the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-</b> the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</li> </ul> The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-19-00425)</b> and has attached a justification of its offer and a description of any BEPs if included in settlement offer.				
<b>CERTIFICATION STATEMENT</b>					
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			
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>					
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.					

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

## Attachment 1

## Failed to Submit DMRs

## Outfall 001

Monitoring Period	Outfall	Due Date
October 1, 2016 – December 31, 2016	001	January 28, 2017
January 1, 2017 – March 31, 2017	001	April 28, 2017
April 2017 – June 30, 2017	001	July 28, 2017
July 1, 2017 – September 30, 2017	001	October 28, 2017
October 1, 2017 – December 31, 2017	001	January 28, 2018
January 1, 2018 – March 31, 2018	001	April 28, 2018
April 1, 2018 – June 30, 2018	001	July 28, 2018
July 1, 2018 – September 30, 2018	001	October 28, 2018
October 1, 2018 – December 31, 2018	001	January 28, 2019

## Outfall 002

Monitoring Period	Outfall	Due Date
July 1, 2016 – December 31, 2016	002	January 28, 2017
January 1, 2017 – June 30, 2017	002	July 28, 2017

## Attachment 2

## Effluent Exceedances

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
June 2016	001	pH (maximum)	9 Standard Units	13.58 Standard Units
January 2016 – June 2016	002	Fecal Coliform (monthly average)	200 colonies/100 mL	>6000 colonies/100 mL
		Fecal Coliform (daily maximum)	400 colonies/100 mL	>6000 colonies/100 mL
		Total Suspended Solids (monthly average)	30 mg/L	36 mg/L
August 2016	001	pH (maximum)	9 Standard Units	9.08 Standard Units
September 2016	001	pH (maximum)	9 Standard Units	9.74 Standard Units

## Attachment 3

## Late DMRs

## Outfall 001

Monitoring Period	Outfall	Due Date	Date DMR Signed/Submitted
January 1, 2016 – January 31, 2016	001	April 28, 2016	July 14, 2016
February 1, 2016 – February 29, 2016	001	April 28, 2016	July 14, 2016
March 1, 2016 – March 31, 2016	001	April 28, 2016	July 14, 2016
June 1, 2016 – June 30, 2016	001	July 28, 2016	August 16, 2016
January 1, 2019 – March 31, 2019	001	April 28, 2019	May 7, 2019

## Outfall 002

Monitoring Period	Outfall	Due Date	Date DMR Submitted
January 1, 2016 – June 30, 2016	002	July 28, 2016	August 16, 2016
July 1, 2017 – December 31, 2017	002	January 28, 2018	March 21, 2019
January 1, 2018 – June 30, 2018	002	July 28, 2018	March 21, 2019
July 1, 2018 – December 31, 2018	002	January 28, 2019	March 21, 2019



# SETTLEMENT AGREEMENTS

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.

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).

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	
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	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
5. 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.



# SETTLEMENT AGREEMENTS

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

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times [\text{Penalty Event Maximum} - \text{Penalty Event Minimum}])$$

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.

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.

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.

Settlement Offers .....	searchable in <a href="#">EDMS</a> using the following filters Media: Air Quality, Function: Enforcement; Description: Settlement
Settlement Agreements .....	<a href="#">Enforcement Division's website</a> specific examples can be provided upon request
Penalty Determination Method .....	<a href="#">LAC 33:1 Chapter 7</a>
Beneficial Environmental Projects .....	<a href="#">LAC 33:1 Chapter 25</a>
Judicial Interest.....	<a href="#">FAQs</a> provided by the Louisiana State Bar Association

