

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ABBY PLANTATION ESTATES SANITARY
SEWERAGE CORP.

AI # 22365, 40046

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

* Settlement Tracking No.
* SA-WE-22-0058
*
* Enforcement Tracking Nos.
* WE-CN-16-00332
* WE-CN-18-00362
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SETTLEMENT

The following Settlement is hereby agreed to between Abby Plantation Estates Sanitary Sewerage Corp. (“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 oxidation ponds serving subdivisions located in Thibodaux, Lafourche Parish, Louisiana (“the Facilities”).

II

On October 2, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-16-00332 (Exhibit 1).

On October 19, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-18-00362 (Exhibit 2).

The following violations, although not cited in the foregoing enforcement actions, are included within the scope of this settlement:

Abby Plantation Estates – AI No. 22365

A file review conducted by the Department on or about September 1, 2020, revealed that the Respondent exceeded effluent limitations. These effluent limitation exceedances, as reported by the Respondent on monthly Discharge Monitoring Reports (DMRs), are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
January 2018	001A	TSS (Monthly Avg.) - mg/L	20	25
		Fecal Coliform (Monthly Avg.) - col/100mL	200	4200
		Fecal Coliform (Daily Max.) - col/100mL	400	4200
February 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	600
		Fecal Coliform (Daily Max.) - col/100mL	400	600
March 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	370
April 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	500
		Fecal Coliform (Daily Max.) - col/100mL	400	500
May 2018	001A	TSS (Monthly Avg.) - mg/L	20	24
		Fecal Coliform (Monthly Avg.) - col/100mL	200	550
		Fecal Coliform (Daily Max.) - col/100mL	400	550
June 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	1400
		Fecal Coliform (Daily Max.) - col/100mL	400	1400
July 2018	001A	TSS (Monthly Avg.) - mg/L	20	29
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1100
		Fecal Coliform (Daily Max.) - col/100mL	400	1100
August 2018	001A	TSS (Monthly Avg.) - mg/L	20	26
		Fecal Coliform (Monthly Avg.) - col/100mL	200	>6000
		Fecal Coliform (Daily Max.) - col/100mL	400	>6000
September 2018	001A	TSS (Monthly Avg.) - mg/L	20	42
		TSS (Daily Max.) - mg/L	30	42
		Fecal Coliform (Monthly Avg.) -	200	2500

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
		col/100mL		
		Fecal Coliform (Daily Max.) - col/100mL	400	2500
October 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	360
November 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	460
		Fecal Coliform (Daily Max.) - col/100mL	400	460
December 2018	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	1000
		Fecal Coliform (Daily Max.) - col/100mL	400	1000
April 2019	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	260
May 2019	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	430
		Fecal Coliform (Daily Max.) - col/100mL	400	430
June 2019	001A	TSS (Monthly Avg.) - mg/L	20	29
		Fecal Coliform (Monthly Avg.) - col/100mL	200	500
		Fecal Coliform (Daily Max.) - col/100mL	400	500
July 2019	001A	TSS (Monthly Avg.) - mg/L	20	34
		TSS (Daily Max.) - mg/L	30	34
		Fecal Coliform (Monthly Avg.) - col/100mL	200	600
		Fecal Coliform (Daily Max.) - col/100mL	400	600
August 2019	001A	TSS (Monthly Avg.) - mg/L	20	37
		TSS (Daily Max.) - mg/L	30	37
		Fecal Coliform (Monthly Avg.) - col/100mL	200	800
		Fecal Coliform (Daily Max.) - col/100mL	400	800
September 2019	001A	TSS (Monthly Avg.) - mg/L	20	32
		TSS (Daily Max.) - mg/L	30	32
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1299.7
		Fecal Coliform (Daily Max.) - col/100mL	400	1299.7
October 2019	001A	TSS (Monthly Avg.) - mg/L	20	21
		Fecal Coliform (Monthly Avg.) - col/100mL	200	>2149.6
		Fecal Coliform (Daily Max.) - col/100mL	400	>2149.6
November 2019	001A	TSS (Monthly Avg.) - mg/L	20	24

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
December 2019	001A	TSS (Monthly Avg.) - mg/L	20	25
		Fecal Coliform (Monthly Avg.) - col/100mL	200	2149.6
		Fecal Coliform (Daily Max.) - col/100mL	400	2149.6
January 2020	001A	TSS (Monthly Avg.) - mg/L	20	21
		Fecal Coliform (Monthly Avg.) - col/100mL	200	488.4
		Fecal Coliform (Daily Max.) - col/100mL	400	488.4
February 2020	001A	TSS (Monthly Avg.) - mg/L	20	27
		Fecal Coliform (Monthly Avg.) - col/100mL	200	435.2
		Fecal Coliform (Daily Max.) - col/100mL	400	435.2
March 2020	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	579.4
		Fecal Coliform (Daily Max.) - col/100mL	400	579.4
April 2020	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	290.9

Each effluent limitation exceedances is a violation of LPDES permit LAG560019 (prior to April 1, 2020: Effluent Limitations and Monitoring Requirements, page 2 of 17 and Standard Conditions for LPDES Permits, Section A.2; beginning April 1, 2020: Part I, Section B, Schedule A, page 3 of 22 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

Abby Plantation # 2 – AI No. 40046

A file review conducted by the Department on or about September 1, 2020, revealed that the Respondent exceeded effluent limitations. The Respondent was ordered to comply with expired LPDES permit LA0095257, until such time as a new permit was issued by the Department, in the order portion of **COMPLIANCE ORDER & NOTICE OF PONTENTIAL PENALTY WE-CN-16-00332** issued to the Respondent on October 2, 2017, and received by the Respondent on March 8, 2018. These effluent limitation exceedances, as reported by the Respondent on monthly DMRs, are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
January 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	20
		BOD ₅ (Daily Max.) - mg/L	15	20
		TSS (Monthly Avg.) – mg/L	15	22
		TSS (Daily Max.) - mg/L	23	24
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.24
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.35
		Fecal Coliform (Monthly Avg.) - col/100mL	200	4225
		Fecal Coliform (Daily Max.) - col/100mL	400	5100
February 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	15
		TSS (Monthly Avg.) – mg/L	15	18
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.075
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.1
		Fecal Coliform (Monthly Avg.) - col/100mL	200	471
		Fecal Coliform (Daily Max.) - col/100mL	400	600
March 2018	001A	Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.295
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.3
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1068
		Fecal Coliform (Daily Max.) - col/100mL	400	3800
April 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	14
		BOD ₅ (Daily Max.) - mg/L	15	16
		TSS (Monthly Avg.) – mg/L	15	21
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.17
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.28
		Fecal Coliform (Daily Max.) - col/100mL	400	520
May 2018	001A	TSS (Monthly Avg.) – mg/L	15	19
		TSS (Daily Max.) - mg/L	23	24
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.05

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.06
		Fecal Coliform (Monthly Avg.) - col/100mL	200	799
		Fecal Coliform (Daily Max.) - col/100mL	400	1100
June 2018	001A	TSS (Monthly Avg.) – mg/L	15	17
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.3
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.35
		Fecal Coliform (Monthly Avg.) - col/100mL	200	2020
		Fecal Coliform (Daily Max.) - col/100mL	400	2400
July 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	14
		BOD ₅ (Daily Max.) - mg/L	15	18
		TSS (Monthly Avg.) – mg/L	15	26
		TSS (Daily Max.) - mg/L	23	28
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.05
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1140
		Fecal Coliform (Daily Max.) - col/100mL	400	1300
August 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	12
		TSS (Monthly Avg.) – mg/L	15	22
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Monthly Avg.) - col/100mL	200	4517
		Fecal Coliform (Daily Max.) - col/100mL	400	>6000
September 2018	001A	TSS (Monthly Avg.) – mg/L	15	35
		TSS (Daily Max.) - mg/L	23	38
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Monthly Avg.) -	200	3464

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
		col/100mL		
		Fecal Coliform (Daily Max.) - col/100mL	400	>6000
October 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	13
		BOD ₅ (Daily Max.) - mg/L	15	16
		TSS (Monthly Avg.) – mg/L	15	23
		TSS (Daily Max.) - mg/L	23	34
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Monthly Avg.) - col/100mL	200	369
November 2018	001A	TSS (Monthly Avg.) – mg/L	15	19
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.165
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.17
		Fecal Coliform (Monthly Avg.) - col/100mL	200	806
		Fecal Coliform (Daily Max.) - col/100mL	400	1300
December 2018	001A	BOD ₅ (Monthly Avg.) – mg/L	10	13
		BOD ₅ (Daily Max.) - mg/L	15	16
		TSS (Monthly Avg.) – mg/L	15	26
		TSS (Daily Max.) - mg/L	23	28
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.155
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.25
		Fecal Coliform (Monthly Avg.) - col/100mL	200	2683
		Fecal Coliform (Daily Max.) - col/100mL	400	3600
January 2019	001A	Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
February 2019	001A	Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.07
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.07
March 2019	001A	Total Residual Chlorine (Monthly Avg.) -	0.0086	0.09

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
		mg/L		
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.13
April 2019	001A	Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.14
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.23
		Fecal Coliform (Monthly Avg.) - col/100mL	200	316
May 2019	001A	BOD ₅ (Monthly Avg.) – mg/L	10	12
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.285
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.34
June 2019	001A	BOD ₅ (Monthly Avg.) – mg/L	10	13
		TSS (Monthly Avg.) – mg/L	15	21
		TSS (Daily Max.) - mg/L	23	30
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.035
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.04
		Fecal Coliform (Monthly Avg.) - col/100mL	200	748
		Fecal Coliform (Daily Max.) - col/100mL	400	800

Each effluent limitation exceedance is a violation of **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332**, La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

The Respondent was issued LPDES permit LA0127361 on May 22, 2019, with an effective date of July 1, 2019. LPDES permit LA0127361 will expire June 30, 2024. A file review conducted by the Department on or about September 1, 2020, revealed that the Respondent exceeded effluent limitations. These effluent limitation exceedances, as reported by the Respondent on monthly DMRs, are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value		
July 2019	001A	TSS (Monthly Avg.) – lb/d	14.5	78.4		
		TSS (Monthly Avg.) – mg/L	15	29		
		TSS (Daily Max.) - mg/L	23	38		
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.008	<.1		
		Total Residual Chlorine (Daily Max.) - mg/L	0.02	<.1		
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1273		
		Fecal Coliform (Daily Max.) - col/100mL	400	2700		
		BOD ₅ (Monthly Avg.) – lb/d	9.6	40.5		
		BOD ₅ (Monthly Avg.) – mg/L	10	15		
		BOD ₅ (Daily Max.) - mg/L	15	17		
		August 2019	001A	TSS (Monthly Avg.) – lb/d	14.5	100.9
TSS (Monthly Avg.) – mg/L	15			28		
TSS (Daily Max.) - mg/L	23			42		
Total Residual Chlorine (Monthly Avg.) - mg/L	0.008			0.135		
Total Residual Chlorine (Daily Max.) - mg/L	0.02			0.17		
Fecal Coliform (Monthly Avg.) - col/100mL	200			799		
Fecal Coliform (Daily Max.) - col/100mL	400			1100		
BOD ₅ (Monthly Avg.) – lb/d	9.6			36		
BOD ₅ (Daily Max.) - mg/L	15			18		
September 2019	001A			TSS (Monthly Avg.) – lb/d	14.5	86.5
				TSS (Monthly Avg.) – mg/L	15	24
		TSS (Daily Max.) - mg/L	23	26		
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.008	<.1		
		Total Residual Chlorine (Daily Max.) - mg/L	0.02	<.1		
		Fecal Coliform (Monthly Avg.) - col/100mL	200	372.4		
		Fecal Coliform (Daily Max.) - col/100mL	400	1299.7		
		BOD ₅ (Monthly Avg.) – lb/d	9.6	46.8		
		BOD ₅ (Monthly Avg.) – mg/L	10	13		
		October 2019	001A	TSS (Monthly Avg.) – lb/d	14.5	42
TSS (Monthly Avg.) – mg/L	15			20		

		Ammonia Nitrogen (Monthly Avg.) – lb/d	4.8	8.3		
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.008	<.1		
		Total Residual Chlorine (Daily Max.) - mg/L	0.02	<.1		
		Fecal Coliform (Monthly Avg.) - col/100mL	200	541		
		Fecal Coliform (Daily Max.) - col/100mL	400	>2419.6		
		BOD ₅ (Monthly Avg.) – lb/d	9.6	21		
November 2019	001A	TSS (Monthly Avg.) – lb/d	15	108.1		
		TSS (Monthly Avg.) – mg/L	15	30		
		TSS (Daily Max.) - mg/L	23	35		
		Ammonia Nitrogen (Monthly Avg.) – lb/d	4.8	22.3		
		Ammonia Nitrogen (Monthly Avg.) – mg/L	5	6.2		
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.008	0.27		
		Total Residual Chlorine (Daily Max.) - mg/L	0.02	0.3		
		Fecal Coliform (Monthly Avg.) - col/100mL	200	497		
		Fecal Coliform (Daily Max.) - col/100mL	400	>2419.6		
		BOD ₅ (Monthly Avg.) – lb/d	9.6	72		
		BOD ₅ (Monthly Avg.) – mg/L	10	20		
		BOD ₅ (Daily Max.) - mg/L	15	24		
		December 2019	001A	TSS (Monthly Avg.) – lb/d	15	79.3
				TSS (Monthly Avg.) – mg/L	15	22
Ammonia Nitrogen (Monthly Avg.) – lb/d	4.8			28.1		
Ammonia Nitrogen (Monthly Avg.) – mg/L	5			7.8		
Total Residual Chlorine (Monthly Avg.) - mg/L	0.008			<.1		
Total Residual Chlorine (Daily Max.) - mg/L	0.02			<.1		
Fecal Coliform (Monthly Avg.) - col/100mL	200			2192		
Fecal Coliform (Daily Max.) - col/100mL	400			>2419.6		
BOD ₅ (Monthly Avg.) – lb/d	9.6			50.4		
BOD ₅ (Monthly Avg.) – mg/L	10			14		
January 2020	001A			TSS (Monthly Avg.) – lb/d	15	64.8
		TSS (Monthly Avg.) – mg/L	15	18		
		Ammonia Nitrogen (Monthly Avg.) – lb/d	4.8	29.2		
		Ammonia Nitrogen (Monthly Avg.) – mg/L	5	8.1		

		Total Residual Chlorine (Monthly Avg.) - mg/L	0.008	0.24
		Total Residual Chlorine (Daily Max.) - mg/L	0.02	0.47
		Fecal Coliform (Monthly Avg.) - col/100mL	200	645.5
		Fecal Coliform (Daily Max.) - col/100mL	400	1986.3
		BOD ₅ (Monthly Avg.) – lb/d	9.6	28.8
February 2020	001A	TSS (Monthly Avg.) – lb/d	15	108.1
		TSS (Monthly Avg.) – mg/L	15	30
		TSS (Daily Max.) - mg/L	23	35
		Ammonia Nitrogen (Monthly Avg.) – lb/d	4.8	22.3
		Ammonia Nitrogen (Monthly Avg.) – mg/L	5	6.2
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.008	0.27
		Total Residual Chlorine (Daily Max.) - mg/L	0.02	0.3
		Fecal Coliform (Monthly Avg.) - col/100mL	200	497
		Fecal Coliform (Daily Max.) - col/100mL	400	>2419.6
		BOD ₅ (Monthly Avg.) – lb/d	9.6	72
		BOD ₅ (Monthly Avg.) – mg/L	10	20
		BOD ₅ (Daily Max.) - mg/L	15	24
		March 2020	001A	TSS (Monthly Avg.) – lb/d
Ammonia Nitrogen (Monthly Avg.) – lb/d	4.8			25.2
Ammonia Nitrogen (Monthly Avg.) – mg/L	5			7
Fecal Coliform (Daily Max.) - col/100mL	400			517.2
BOD ₅ (Monthly Avg.) – lb/d	9.6			21.6

Each effluent limitation exceedances is a violation of LPDES permit LA0127361 (Permit Requirements, Effluent Limitations and Monitoring Requirements, page 1 of 3 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

A file review conducted on or about September 1, 2020, revealed the Respondent failed to sample the effluent from Outfall 001 on a monthly basis as required by LPDES Permit LA0127361. Specifically, the Respondent failed to sample for ammonia-nitrogen during the July, August, and September 2019 monthly monitoring periods. Each failure to sample is a violation of LPDES

permit LA0127361 (Permit Requirements, Effluent Limitations and Monitoring Requirements, page 1 of 3 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

An inspection conducted on or about June 17, 2020, revealed that the Respondent instituted an unauthorized bypass. Specifically, a ditch was constructed, which allowed for the discharge from Cell #2 to a parish drainage ditch. Chlorination was bypassed, resulting in the discharge of untreated sanitary wastewater. The use of an unauthorized bypass is a violation of LPDES permit LA0127361 (Standard Conditions for LPDES Permits, Sections A.2 & B.4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.M.

The Respondent failed to notify the Department of planned changes to the facility which could significantly change the nature or increase the quantity of pollutants discharged. Specifically, the oxidation ponds were modified to receive influent from Solar's Mobile Home Park, which was permitted for discharge of 25,000 to 50,000 gallons a day under LPDES permit LAG560289. The failure to notify the Department is a violation of LPDES permit LA0127361 (Standard Conditions for LPDES Permits, Sections A.2 & D.1.b), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.1.b.

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 ONE HUNDRED TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00), of which Three

Thousand Six Hundred Twenty-Eight and 02/100 Dollars (\$3,628.02) 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 Lafourche 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

An initial payment of \$20,000.00 is due within ten (10) days from notice of the Secretary's signature. The remaining balance of \$90,000.00 shall be made over a period of thirty (36) consecutive months in the amount of \$2,500.00 per month due on the 15th of each month. 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.

**ABBY PLANTATION ESTATES
SANITARY SEWERAGE CORP.**

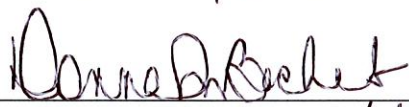
BY: 
(Signature)

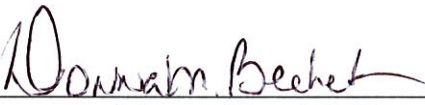
CRAIG SCHAFER
(Printed)

TITLE: PRESIDENT

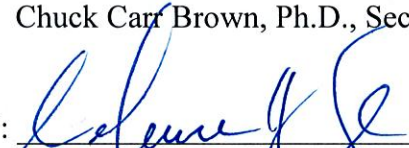
THIS DONE AND SIGNED in duplicate original before me this 24th day of October, 2022, at Kenner, Louisiana.



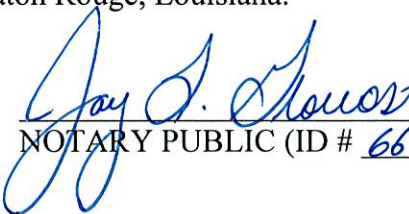

NOTARY PUBLIC (ID # 66212)


(stamped or printed)

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

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

THIS DONE AND SIGNED in duplicate original before me this 6th day of February, 2023, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 66881)

Jay L. Glorioso
(stamped or printed)

Approved: 
Celena J. Cage, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

October 2, 2017

CERTIFIED MAIL (7004 2510 0006 3854 1075)
RETURN RECEIPT REQUESTED

ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP.
c/o Craig Schaffer
4130 St. Ann Drive
Kenner, Louisiana 70065

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-CN-16-00332
AGENCY INTEREST NO. 22365; 40046**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

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

Sincerely,

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

Celena L. Cage
Administrator
Enforcement Division

CJC/BKB/bkb
Alt ID No. LAG560016; LA0095257
Attachments

c: e-copy-DHH/Office of Public Health



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

<p>IN THE MATTER OF</p> <p>ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP. LAFOURCHE PARISH ALT ID NO. LAG560016; LA0095257</p> <p>PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT, La. R.S. 30:2001, <u>ET SEQ.</u></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p>ENFORCEMENT TRACKING NO.</p> <p style="text-align: center;">WE-CN-16-00332</p> <p>AGENCY INTEREST NO.</p> <p style="text-align: center;">22365; 40046</p>
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CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates the following oxidation ponds serving subdivisions in Lafourche Parish, Louisiana. **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** will address the following facilities:

#	Facility Name	Location	Agency Interest	Permit Number
1	Abby Plantation Estates	40 Arpent Road, Thibodaux, LA	22365	LAG560016
2	Abby Plantation # 2	Hwy. 3107 and Winder Road, Thibodaux, LA	40046	LA0095257

II.

Abby Plantation Estates – AI No. 22365

The Respondent owns and/or operates an oxidation pond that serves the residents of Abby Plantation Estates Subdivision, which is located at 40 Arpent Road in Thibodaux, Lafourche Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG560000 on or about March 1, 2011, and was specifically assigned permit number LAG560016. LPDES permit LAG560016 expired on or about May 31, 2014, and was administratively continued. LPDES permit LAG560016 was reissued on or about March 27, 2015, with an expiration date of November 2, 2019. LPDES permit LAG560016 authorizes the Respondent to discharge treated sanitary wastewater into an unnamed ditch, thence into an unnamed canal, thence into Bayou Onion, thence into Grand Bayou, waters of the state.

III.

An inspection conducted by the Department on or about October 30, 2015, and a subsequent file review conducted by the Department on or about June 22, 2017, revealed that the Respondent exceeded effluent limitations. These effluent limitation exceedances, as reported by the Respondent on monthly Discharge Monitoring Reports (DMRs), are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
04/2014	001A	TSS (Monthly Avg.) – mg/L	20	23.2
05/2014	001A	TSS (Monthly Avg.) – mg/L	20	29.4
		TSS (Weekly Avg.) – mg/L	30	33.9
06/2014	001A	TSS (Monthly Avg.) – mg/L	20	48.8
		TSS (Weekly Avg.) – mg/L	30	48.8
		Fecal Coliform (Monthly Avg.) - col/100mL	200	2000
		Fecal Coliform (Daily Max.) - col/100mL	400	2000
07/2014	001A	TSS (Monthly Avg.) – mg/L	20	26.7
		Fecal Coliform (Monthly Avg.) - col/100mL	200	360
08/2014	001A	TSS (Monthly Avg.) – mg/L	20	23.6
		Fecal Coliform (Monthly Avg.) - col/100mL	200	370
09/2014	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	250
10/2014	001A	TSS (Monthly Avg.) – mg/L	20	24.4
		Fecal Coliform (Monthly Avg.) - col/100mL	200	610
		Fecal Coliform (Daily Max.) - col/100mL	400	610
11/2014	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	2000
		Fecal Coliform (Daily Max.) - col/100mL	400	2000
12/2014	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	2000

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
01/2015	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	420
		Fecal Coliform (Daily Max.) - col/100mL	400	420
04/2015	001A	BOD ₅ (Monthly Avg.) - mg/L	20	23
		Fecal Coliform (Monthly Avg.) - col/100mL	200	4600
		Fecal Coliform (Daily Max.) - col/100mL	400	4600
05/2015	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	330
06/2015	001A	TSS (Monthly Avg.) - mg/L	20	64
		TSS (Weekly Avg.) - mg/L	30	64
		Fecal Coliform (Monthly Avg.) - col/100mL	200	3800
		Fecal Coliform (Daily Max.) - col/100mL	400	3800
08/2015	001A	TSS (Monthly Avg.) - mg/L	20	37
		TSS (Weekly Avg.) - mg/L	30	37
		Fecal Coliform (Monthly Avg.) - col/100mL	200	545
		Fecal Coliform (Daily Max.) - col/100mL	400	545
10/2015	001A	TSS (Monthly Avg.) - mg/L	20	26
		Fecal Coliform (Monthly Avg.) - col/100mL	200	>6000
		Fecal Coliform (Daily Max.) - col/100mL	400	>6000
12/2015	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	520
		Fecal Coliform (Daily Max.) - col/100mL	400	520
01/2016	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	1300
		Fecal Coliform (Daily Max.) - col/100mL	400	1300
02/2016	001A	TSS (Monthly Avg.) - mg/L	20	21
		Fecal Coliform (Monthly Avg.) - col/100mL	200	250
03/2016	001A	TSS (Monthly Avg.) - mg/L	20	26
04/2016	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	240
05/2016	001A	TSS (Monthly Avg.) - mg/L	20	30
06/2016	001A	TSS (Monthly Avg.) - mg/L	20	43
		TSS (Weekly Avg.) - mg/L	30	43
		Fecal Coliform (Monthly Avg.) - col/100mL	200	700
		Fecal Coliform (Daily Max.) - col/100mL	400	700
07/2016	001A	TSS (Monthly Avg.) - mg/L	20	43
		TSS (Weekly Avg.) - mg/L	30	43
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1000
		Fecal Coliform (Daily Max.) - col/100mL	400	1000
08/2016	001A	TSS (Monthly Avg.) - mg/L	20	24
		Fecal Coliform (Monthly Avg.) - col/100mL	200	3000
		Fecal Coliform (Daily Max.) - col/100mL	400	3000
02/2017	001A	TSS (Monthly Avg.) - mg/L	20	23
		Fecal Coliform (Monthly Avg.) - col/100mL	200	510
		Fecal Coliform (Daily Max.) - col/100mL	400	510
03/2017	001A	TSS (Monthly Avg.) - mg/L	20	26
		Fecal Coliform (Monthly Avg.) - col/100mL	200	400

Each effluent limitation exceedance is a violation of LPDES permit LAG560016 (Part I, Page 4 of 16 prior to March 27, 2015; Part I, Page 2 of 17 after March 27, 2015; and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

IV.

A file review conducted by the Department on or about June 22, 2017, revealed that the Respondent failed to submit monthly DMRs for September, October, November, and December of 2016, and quarterly DMRs for the third and fourth quarters of 2016. Failure to submit DMRs is a violation of LPDES permit LAG560016 (Part II, Section N.7; and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a.

V.

A file review conducted by the Department on or about June 22, 2017, revealed that the Respondent failed to submit DMRs in a timely manner. The Respondent is required to submit monthly and quarterly DMRs on a quarterly basis no later than the 28th day of the month following each calendar quarter. Specifically, the Respondent failed to submit DMRs for Outfall 001-A by the due dates for the monitoring periods of March and December of 2014; April, May, June, July, August, and September of 2015; January, February, March, July, and August of 2016; and Outfall 001-Q by the due dates for the monitoring periods of the second and third quarters of 2015; and the first quarter of 2016. Each failure to submit a DMR in a timely manner is a violation of LPDES permit LAG560016 (Part II, Section N.7; and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.

VI.

Abby Plantation # 2 – AI No. 40046

The Respondent owns and/or operates a two-cell oxidation pond that serves an apartment complex and a subdivision, which is located at Highway 3107 and Winder Road in Thibodaux, Lafourche Parish, Louisiana. The Department transferred LPDES permit LA0095257 to the Respondent on June 18, 2015, with an effective date of March 1, 2015. LPDES permit LA0095257 expired on or about October 31, 2015, and was not administratively continued. LPDES permit LA0095257 authorized the Respondent to discharge treated sanitary wastewater into an unnamed ditch, thence into Eighty Arpent Canal, thence into the Terrebonne/Lafourche Drainage Canal, waters of the state.

VII.

An inspection conducted by the Department on or about September 22, 2015, and a subsequent file review conducted by the Department on or about June 22, 2017, revealed that the Respondent exceeded effluent limitations. These effluent limitation exceedances, as reported by the Respondent on monthly DMRs, are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
03/2015	001A	Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.07
		Fecal Coliform (Daily Max.) - col/100mL	400	510
04/2015*	001A	BOD ₅ (Monthly Avg.) - mg/L	10	12
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.10
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.14
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1606
		Fecal Coliform (Daily Max.) - col/100mL	400	>6000
05/2015*	001A	BOD ₅ (Monthly Avg.) - mg/L	10	12
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Daily Max.) - col/100mL	400	900
06/2015*	001A	BOD ₅ (Monthly Avg.) - mg/L	10	18
		BOD ₅ (Weekly Avg.) - mg/L	15	26
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Monthly Avg.) - col/100mL	200	377
		Fecal Coliform (Daily Max.) - col/100mL	400	490
08/2015*	001A	BOD ₅ (Monthly Avg.) - mg/L	10	16
		BOD ₅ (Weekly Avg.) - mg/L	15	18
		TSS (Monthly Avg.) - mg/L	15	20
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.10
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.17
		Fecal Coliform (Monthly Avg.) - col/100mL	200	416
		Fecal Coliform (Daily Max.) - col/100mL	400	540
10/2015*	001A	BOD ₅ (Monthly Avg.) - mg/L	10	14
		BOD ₅ (Weekly Avg.) - mg/L	15	16
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.21
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.40

Each effluent exceedance is a violation of LPDES permit LA0095257 (Part I, Page 2 of 2; and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

VIII.

A file review conducted by the Department on or about June 22, 2017, revealed that the Respondent failed to submit Non-Compliance Reports (NCRs) for all of the Daily Maximum effluent limitation exceedances that occurred during the monthly monitoring periods indicated by

an asterisk (*) in the aforementioned table. Specifically, the Respondent failed to report the numeric value of each daily maximum exceedance. Each failure to submit an NCR is a violation of LPDES permit LA0095257 (Part III, Sections A.2 and D.7), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.7.

IX.

An inspection conducted by the Department on or about September 22, 2015, and a subsequent file review conducted by the Department on or about June 22, 2017, revealed that the Respondent did not submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0095257. LPDES permit LA0095257 expired October 31, 2015. The Respondent's failure to submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0095257 is a violation of LPDES permit LA0095257, (Standard Conditions for LPDES Permits, Sections A.2 and A.5.a), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

X.

A file review conducted by the Department on or about June 22, 2017, revealed that the Respondent was operating and discharging without an LPDES permit since October 31, 2015, as evidenced by the submittal of monthly DMRs. The unauthorized discharge of wastewater is in violation of La. R. S. 30:2075.

XI.

A file review conducted by the Department on or about June 22, 2017, revealed that the Respondent failed to submit DMRs in a timely manner. The Respondent is required to submit monthly DMRs on a quarterly basis no later than the 28th day of the month following each calendar quarter. Specifically, the Respondent failed to submit DMRs for Outfall 001-A by the due dates for the monitoring periods of April 2015 through September 2015. Each failure to submit a DMR in a timely manner is a violation of LPDES permit LA0095257 (Part II, Section 9.D; and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.

XII.

A file review conducted by the Department on or about June 22, 2017, revealed that the Respondent failed to sample and measure flow in accordance with LPDES permit LA0095257. Specifically, the Respondent is required by LPDES permit LA0095257 to sample twice a month for Total Residual Chlorine. The Respondent sampled for Total Residual Chlorine only once for

the monitoring period of March 2015. The Respondent is required by LPDES permit LA0095257 to measure flow weekly. The Respondent estimated flow for the monitoring period of March 2015. The Respondent measured flow only twice per month for the monitoring periods of April, May, June, August, and October of 2015. Each failure to sample and measure flow is a violation of LPDES permit LA0095257 (Part I, Page 2 of 2; and Standard Conditions for LPDES Permits, Sections A.2, B.3, and C.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with LPDES permit LAG560016, and the Water Quality Regulations including, but not limited to, complying with all effluent limitations, submitting DMRs in a timely manner, submitting NCRs, submitting timely permit renewal applications, ceasing all unauthorized discharges, sampling, and properly measuring flow. To comply with the terms and conditions of expired LPDES LA0095257 until the permit is reissued, if the Respondent continues to discharge from the oxidation pond located at Abby Plantation # 2, AI No. 40046.

II.

To protect water quality, the Respondent is required to comply with the following for **Abby Plantation # 2, AI No. 40046**:

- A) If the Respondent demonstrates a need to continue the discharge, a completed LPDES notice of intent (NOI) or appropriate LPDES permit application must be submitted to the Office of Environmental Services within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The completed LPDES notice of intent or permit application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25 (please reference **WE-CN-16-00332, AI# 40046, and LA0095257**). The three copies (the original and two copies) of the completed application or NOI should be submitted to:**

Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Municipal & General Water Permit Section

A copy of the completed application or NOI must also be sent to the Enforcement Division. For help or questions concerning the application or NOI, you may contact DEQ Small Business Assistance at 1-800-259-2890.

The Respondent shall comply with the terms and conditions of expired LPDES LA0095257 including, but not limited to, meeting the effluent limitations and monitoring requirements and submitting DMRs, until such time as a new permit is issued by the Department; or

- B) If the Respondent does not choose to discharge to waters of the state**, the Respondent shall, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to waters of the state.

III.

To notify the Enforcement Division within fifteen (15) days after receipt of a final LPDES permit issued by the Department for **Abby Plantation # 2, AI No. 40046**.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, properly completed DMRs for the monitoring periods mentioned in Paragraph IV 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."

V.

To submit a completed NetDMR Subscriber Agreement for **Abby Plantation Estates** 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:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: **NetDMR**
Re: **Enforcement Tracking No. WE-CN-16-00332**
Agency Interest No. 22365

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.

VI.

To submit a completed NetDMR Subscriber Agreement for **Abby Plantation # 2** to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after issuance of an LPDES permit. The Subscriber Agreement shall be signed and dated with an original signature and submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: **NetDMR**
Re: **Enforcement Tracking No. WE-CN-16-00332**
Agency Interest No. 40046

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.

VII.

To submit DMRs and associated reports electronically using NetDMR for both facilities beginning with the first monitoring period after approval of the NetDMR Subscriber Agreements unless otherwise notified in writing by the Department.

VIII.

To 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 to be taken and shall include a critical path schedule for the achievement of compliance within the shortest time possible.

IX.

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 violations 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:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Bernie Boyett
Enforcement Tracking No. WE-CN-16-00332
Agency Interest No. 22365; 40046

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **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 right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. WE-CN-16-00332
Agency Interest No. 22365; 40046

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 Department's Rules of Procedure. 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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, 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 Bernie Boyett at (225) 219-0783 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **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 Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. 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.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 2nd day of October, 2017.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Bernie Boyett

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
 REQUEST TO CLOSE**



Enforcement Tracking No.	WE-CN-16-00332	Contact Name	Bernie Boyett
Agency Interest (AI) No.	22365; 40046	Contact Phone No.	(225) 219-0783
Alternate ID No.	LAG560016; LA0095257		
Respondent:	ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP.	Facility Name:	Abby Plantation Estates; Abby Plantation # 2
	c/o Craig Schaffer 4130 St. Ann Drive	Physical Location:	40 Arpent Road; 3107 and Winder Road
	Kenner, Louisiana 70065	City, State, Zip:	Thibodaux, Louisiana
		Parish:	Lafourche

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IX 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 Paragraph(s) II.A, II.B, IV, V, and VIII of the "Order" portion of the COMPLIANCE ORDER .		
All necessary documents were submitted to the Department within fifteen (15) and thirty (30) days after receipt of a final LPDES permit issued by the Department in accordance with Paragraph(s) III and VI 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)

(check the applicable option)

_____	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:I.Subpart1.Chapter7.
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-16-00332) , 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-16-00332) , 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)= \$ _____ • <i>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.</i>
	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-16-00332) 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
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Bernie Boyett



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

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.



SETTLEMENT AGREEMENTS

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
MAJOR	\$32,500	\$20,000	\$15,000
	to \$20,000	to \$15,000	to \$11,000
MODERATE	\$11,000	\$8,000	\$5,000
	to \$8,000	to \$5,000	to \$3,000
MINOR	\$3,000	\$1,500	\$500
	to \$1,500	to \$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.

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



JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

October 19, 2018

CERTIFIED MAIL (7017 0530 0000 5978 9807)
RETURN RECEIPT REQUESTED

ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP.
c/o Craig Schaffer
P. O. Box 9563
Metairie, Louisiana 70055-9563

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-CN-18-00362
AGENCY INTEREST NO. 22365; 40046**

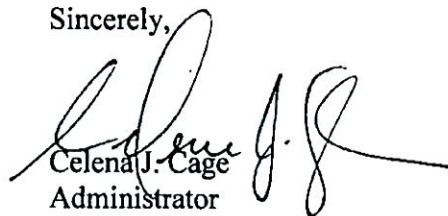
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, *et seq.*), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

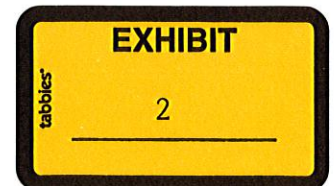
Any questions concerning this action should be directed to Bernie Boyett at (225) 219-0783.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/BKB/bkb
Alt ID No. LAG560016; LA0095257
Attachments

c: e-copy-DHH/Office of Public Health



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

<p>IN THE MATTER OF</p> <p>ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP. LAFOURCHE PARISH ALT ID NO. LAG560016; LA0095257</p> <p>PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT, La. R.S. 30:2001, <u>ET SEQ.</u></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p>ENFORCEMENT TRACKING NO.</p> <p>WE-CN-18-00362</p> <p>AGENCY INTEREST NO.</p> <p>22365; 40046</p>
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**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates the following oxidation ponds serving subdivisions in Lafourche Parish, Louisiana. **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-18-00362** will address the following facilities:

#	Facility Name	Location	Agency Interest	Permit Number
1	Abby Plantation Estates	40 Arpent Road, Thibodaux, LA	22365	LAG560016
2	Abby Plantation # 2	Hwy. 3107 and Winder Road, Thibodaux, LA	40046	LA0095257

II.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** on or about October 2, 2017. **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** was received by the Respondent on March 8, 2018. It is a final action of the Department and not subject to further review.

III.

Abby Plantation Estates – AI No. 22365

The Respondent owns and/or operates an oxidation pond that serves the residents of Abby Plantation Estates Subdivision, which is located at 40 Arpent Road in Thibodaux, Lafourche Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG560000 on or about March 27, 2015, with an expiration date of November 4, 2019, and was specifically assigned permit number LAG560016. LPDES permit LAG560016 authorizes the Respondent to discharge treated sanitary wastewater into an unnamed ditch, thence into an unnamed canal, thence into Bayou Onion, thence into Grand Bayou, waters of the state.

IV.

A file review conducted by the Department on or about August 21, 2018, revealed that the Respondent exceeded effluent limitations. These effluent limitation exceedances, as reported by the Respondent on monthly Discharge Monitoring Reports (DMRs), are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
10/2016	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	4300
		Fecal Coliform (Daily Max.) - col/100mL	400	4300
11/2016	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	430
		Fecal Coliform (Daily Max.) - col/100mL	400	430
12/2016	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	470
		Fecal Coliform (Daily Max.) - col/100mL	400	470
04/2017	001A	TSS (Monthly Avg.) - mg/L	20	38
		TSS (Daily Max.) - mg/L	30	38
		Fecal Coliform (Monthly Avg.) - col/100mL	200	430
		Fecal Coliform (Daily Max.) - col/100mL	400	430
05/2017	001A	TSS (Monthly Avg.) - mg/L	20	27
06/2017	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	3600
		Fecal Coliform (Daily Max.) - col/100mL	400	3600

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
07/2017	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	1000
		Fecal Coliform (Daily Max.) - col/100mL	400	1000
08/2017	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	320
10/2017	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	1800
		Fecal Coliform (Daily Max.) - col/100mL	400	1800
11/2017	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	1000
		Fecal Coliform (Daily Max.) - col/100mL	400	1000
12/2017	001A	Fecal Coliform (Monthly Avg.) - col/100mL	200	3100
		Fecal Coliform (Daily Max.) - col/100mL	400	3100

Each effluent limitation exceedance is a violation of LPDES permit LAG560016 (Effluent Limitations and Monitoring Requirements, Page 2 of 17; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

V.

A file review conducted by the Department on or about August 21, 2018, revealed that the Respondent failed to submit monthly DMRs for January through June of 2018, and quarterly DMRs for the first and second quarters of 2018. Failure to submit DMRs is a violation of LPDES permit LAG560016 (Other Requirements, Section N.7; and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a.

VI.

An inspection conducted by the Department on or about September 7, 2017, revealed that the Respondent failed to submit DMRs for Outfall 001-A for the monitoring periods of April, May, and June of 2017; and for Outfall 001-Q for the monitoring period of the second quarter of 2017. A subsequent file review conducted by the Department on or about August 21, 2018, revealed that the Respondent had submitted the DMRs, but failed to submit them in a timely manner. The Respondent is required to submit monthly and quarterly DMRs on a quarterly basis no later than the 28th day of the month following each calendar quarter. Specifically, the Respondent failed to submit DMRs for Outfall 001-A by the due dates for the monitoring periods of April, May, and June of 2017; and for Outfall 001-Q by the due date for the monitoring period of the second quarter of 2017. Each failure to submit a DMR in a timely manner is a violation of LPDES permit LAG560016 (Other Requirements, Section N.7; and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.

VII.

Inspections conducted by the Department on or about September 7, 2017, and April 4, 2018, revealed that the Respondent had the following operation and maintenance deficiencies:

A. September 7, 2017 inspection:

1. Retention pond levees were overgrown with vegetation;
2. Fallen trees, branches, and logs were observed within multiple cells of the pond as evidenced in Photo #s 5, 7, 10, and 11 of 19, included in the inspection report;
3. The dividing wall of the two northern cells was overgrown with vegetation and inaccessible for inspection as evidenced in Photo #s 8 and 9 of 19, included in the inspection report; and
4. There was approximately four inches of freeboard in Cell # 1 as evidenced in Photo #s 3 and 4 of 19, included in the inspection report.

B. April 4, 2018 inspection:

1. The lift station located at the corner of Denise Drive and Paula Drive had a faulty float; and
2. The lift station was in poor operating condition overall and needed additional replacement parts to repair the lift station to full working capacity.

Failure to properly operate and maintain all facilities and systems of treatment and control is a violation of LPDES permit LAG560016 (Standard Conditions for LPDES Permits, Sections A.2 and B.3.a), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E.

VIII.

An inspection conducted by the Department on or about September 7, 2017, revealed that the Respondent failed to have a facility representative familiar with the provisions of LPDES permit LAG560016 available by phone or in person at the facility during all hours of operation. Specifically, the Department's attempts to contact the Respondent regarding the inspection via phone and email on September 7, 2017, and September 29, 2017, were unsuccessful. The failure to have a representative available is a violation of LPDES permit LAG560016 (Standard Conditions for LPDES Permits, Sections A.2 and C.1.f), La. R.S. 30:2076 (A)(3), and LAC 33:IX.6513.C.

IX.

An inspection conducted by the Department on or about September 7, 2017, revealed that the Respondent had a levee breach that resulted in the formation of a pool of untreated sanitary

wastewater that accumulated on the west side of the oxidation pond as evidenced in Photo #s 17 and 18 of 19, included in the inspection report. Photo # 16 shows erosion of the levee around the chlorine contact chamber piping. This leak was documented in an earlier inspection conducted by the Department on or about October 30, 2015. Prior to the October 30, 2015 inspection, a new pipe had been connected to the chlorine contact chamber. At the time of the October 30, 2015 inspection the Respondent stated that the source of the leak would be investigated. There was no evidence, submitted to the Department after the October 30, 2015 inspection or observed during the September 7, 2017 inspection, that efforts have been made to repair the leak and mitigate the accumulation of untreated sanitary wastewater and the erosion of the oxidation pond levee. The levee breach is a violation of LPDES permit LAG560016 (Standard Conditions for LPDES Permits, Sections A.2 and B.3.a), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E. The failure to take all reasonable steps to minimize or prevent the discharge of untreated sanitary wastewater which has a reasonable likelihood to adversely affect human health or the environment is a violation of LPDES permit LAG560016 (Standard Conditions for LPDES Permits, Sections A.2 and B.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.D.

X.

Abby Plantation # 2 – AI No. 40046

The Respondent owns and/or operates a two-cell oxidation pond that serves an apartment complex and a subdivision, which is located at Highway 3107 and Winder Road in Thibodaux, Lafourche Parish, Louisiana. The Department transferred LPDES permit LA0095257 to the Respondent on June 18, 2015, with an effective date of March 1, 2015. LPDES permit LA0095257 expired on or about October 31, 2015, and was not administratively continued. LPDES permit LA0095257 authorized the Respondent to discharge treated sanitary wastewater into an unnamed ditch, thence into Eighty Arpent Canal, thence into the Terrebonne/Lafourche Drainage Canal, waters of the state.

XI.

A file review conducted by the Department on or about August 21, 2018, revealed that the Respondent did not submit an LPDES permit renewal application as ordered in the order portion of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** issued to the Respondent on October 2, 2017, and received by the Respondent on March 8, 2018. LPDES permit LA0095257 expired October 31, 2015. The Respondent's

failure to submit an LPDES permit renewal application is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332**, La. R.S. 30:2076 (A)(3), and LAC 33:IX.2501.A.

XII.

An inspection conducted by the Department on or about August 9, 2018, and a subsequent file review conducted by the Department on or about August 21, 2018, revealed that the Respondent was operating and discharging without an LPDES permit. A discharge was observed at the time of the inspection. The file review revealed that the Respondent was operating and discharging without an LPDES permit since October 31, 2015, as evidenced by the submittal of monthly DMRs. The unauthorized discharge of wastewater is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** and La. R. S. 30:2075.

XIII.

A file review conducted by the Department on or about August 21, 2018, revealed that the Respondent exceeded effluent limitations. The Respondent was ordered to comply with expired LPDES permit LA0095257, until such time as a new permit was issued by the Department, in the order portion of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** issued to the Respondent on October 2, 2017, and received by the Respondent on March 8, 2018. These effluent limitation exceedances, as reported by the Respondent on monthly DMRs, are summarized in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
10/2017	001A	Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Monthly Avg.) - col/100mL	200	406
		Fecal Coliform (Daily Max.) - col/100mL	400	1300
11/2017	001A	BOD ₅ (Monthly Avg.) - mg/L	10	46
		BOD ₅ (Daily Max.) - mg/L	15	80
		TSS (Monthly Avg.) - mg/L	15	232
		TSS (Daily Max.) - mg/L	23	453
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	<0.05
		Total Residual Chlorine (Daily Max.) - mg/L	0.0204	<0.05
		Fecal Coliform (Monthly Avg.) - col/100mL	200	648
		Fecal Coliform (Daily Max.) - col/100mL	400	1500
12/2017	001A	BOD ₅ (Monthly Avg.) - mg/L	10	14
		BOD ₅ (Daily Max.) - mg/L	15	16
		Total Residual Chlorine (Monthly Avg.) - mg/L	0.0086	0.165

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
12/2017	001A	Total Residual Chlorine (Daily Max.) - mg/L	0.0204	0.25
		Fecal Coliform (Monthly Avg.) - col/100mL	200	1990
		Fecal Coliform (Daily Max.) - col/100mL	400	3300

Each effluent limitation exceedance is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332**, La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

XIV.

A file review conducted by the Department on or about August 21, 2018, revealed that the Respondent failed to sample and measure flow in accordance with LPDES permit LA0095257. The Respondent was ordered to comply with expired LPDES permit LA0095257, until such time as a new permit was issued by the Department, in the order portion of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** issued to the Respondent on October 2, 2017, and received by the Respondent on March 8, 2018. Specifically, the Respondent was required by LPDES permit LA0095257 to sample twice a month for Total Residual Chlorine. The Respondent sampled for Total Residual Chlorine only once for the monitoring period of October 2017. The Respondent was required by LPDES permit LA0095257 to measure flow weekly. The Respondent measured flow only twice per month for the monitoring periods of October, November, and December of 2017. Each failure to sample and measure flow is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332**, La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

XV.

A file review conducted by the Department on or about August 21, 2018, revealed that the Respondent failed to submit monthly DMRs for January through June of 2018. The Respondent was ordered to comply with expired LPDES permit LA0095257, until such time as a new permit was issued by the Department, in the order portion of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332** issued to the Respondent on October 2, 2017, and received by the Respondent on March 8, 2018. Each failure to submit a DMR is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY WE-CN-16-00332**, La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with LPDES permit LAG560016, and the Water Quality Regulations including, but not limited to, complying with all effluent limitations, submitting DMRs in a timely manner, properly operating and maintaining all facilities and systems of treatment and control, and ceasing all unauthorized discharges. If the Respondent continues to discharge from the oxidation pond located at Abby Plantation # 2, AI No. 40046, to submit an LPDES permit renewal application and comply with the terms and conditions of expired LPDES permit LA0095257 until the permit is reissued.

II.

To protect water quality, the Respondent is required to comply with the following for **Abby Plantation # 2, AI No. 40046**:

- A) If the Respondent demonstrates a need to continue the discharge**, a completed LPDES notice of intent (NOI) or appropriate LPDES permit application must be submitted to the Office of Environmental Services within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The completed LPDES notice of intent or permit application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25 (please reference **WE-CN-18-00362, AI# 40046, and LA0095257**). The three copies (the original and two copies) of the completed application or NOI should be submitted to:

Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Municipal & General Water Permit Section

A copy of the completed application or NOI must also be sent to the Enforcement Division. For help or questions concerning the application or NOI, you may contact DEQ Small Business Assistance at 1-800-259-2890.

The Respondent shall comply with the terms and conditions of expired LPDES LA0095257 including, but not limited to, meeting the effluent limitations and monitoring requirements and submitting DMRs, until such time as a new permit is issued by the Department; or

- B) If the Respondent does not choose to discharge to waters of the state**, the Respondent shall, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, provide

written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to waters of the state.

III.

To notify the Enforcement Division within fifteen (15) days after receipt of a final LPDES permit issued by the Department for **Abby Plantation # 2, AI No. 40046**.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, properly completed DMRs for the monitoring periods mentioned in Paragraphs V and XV 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."

V.

To submit a completed NetDMR Subscriber Agreement for **Abby Plantation Estates** 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:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: NetDMR
Re: Enforcement Tracking No. WE-CN-18-00362
Agency Interest No. 22365

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.

VI.

To submit a completed NetDMR Subscriber Agreement for **Abby Plantation # 2** to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after issuance of an LPDES permit. The Subscriber Agreement shall be signed and dated with an original signature and submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: NetDMR
Re: Enforcement Tracking No. WE-CN-18-00362
Agency Interest No. 40046

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.

VII.

To submit DMRs and associated reports electronically using NetDMR for both facilities beginning with the first monitoring period after approval of the NetDMR Subscriber Agreements unless otherwise notified in writing by the Department.

VIII.

To 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 to be taken and shall include a critical path schedule for the achievement of compliance within the shortest time possible.

IX.

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 violations 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:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Bernie Boyett
Enforcement Tracking No. WE-CN-18-00362
Agency Interest No. 22365; 40046

X.

To attend a meeting to discuss this **COMPLIANCE ORDER**, a plan to achieve compliance, and funding sources for any projects or upgrades. Please contact Bernie Boyett at (225) 219-0783 or Bernie.Boyett@la.gov within thirty (30) days after receipt of this

COMPLIANCE ORDER to schedule a meeting. This meeting must be attended by a responsible representative who is knowledgeable of, and prepared to discuss, the facts and circumstances involved in this matter.

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **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 right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. WE-CN-18-00362
Agency Interest No. 22365; 40046

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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, 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 Bernie Boyett at (225) 219-0783 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **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 Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. 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.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 19th day of October, 2018.



Lourdes Iturraide
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Bernie Boyett

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-18-00362	Contact Name	Bernie Boyett
Agency Interest (AI) No.	22365; 40046	Contact Phone No.	(225) 219-0783
Alternate ID No.	LAG560016; LA0095257		
Respondent:	ABBY PLANTATION ESTATES SANITARY SEWERAGE CORP.	Facility Name:	Abby Plantation Estates; Abby Plantation # 2
	c/o Craig Schaffer	Physical Location:	40 Arpent Road; 3107 and Winder Road
	P. O. Box 9563		
	Metairie, Louisiana 70055-9563	City, State, Zip:	Thibodaux, Louisiana
		Parish:	Lafourche

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IX 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 Paragraph(s) II.A, II.B, IV, V, and VIII of the "Order" portion of the COMPLIANCE ORDER .		
All necessary documents were submitted to the Department within fifteen (15) and thirty (30) days after receipt of a final LPDES permit issued by the Department in accordance with Paragraph(s) III and VI of the "Order" portion of the COMPLIANCE ORDER .		
Submit DMRs and associated reports electronically using NetDMR in accordance with Paragraph(s) VII of the "Order" portion of the COMPLIANCE ORDER .		
To attend a meeting with the Department in accordance with Paragraph(s) X 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)

(check the applicable option)

<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:I.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-18-00362) , 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-18-00362) , 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.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-18-00362) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT		
<p><i>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.</i></p>		
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:		
<p>Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Bernie Boyett</p>		

SETTLEMENT AGREEMENTS

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
MAJOR	\$32,500	\$20,000	\$15,000
	to \$20,000	to \$15,000	to \$11,000
MODERATE	\$11,000	\$8,000	\$5,000
	to \$8,000	to \$5,000	to \$3,000
MINOR	\$3,000	\$1,500	\$500
	to \$1,500	to \$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.

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
Media: Air Quality, Function: Enforcement, Description: Settlement
- Settlement Agreements [Enforcement Division's website](#)
specific examples can be provided upon request
- Penalty Determination Method [LAC 33:1 Chapter 7](#)
- Beneficial Environmental Projects [LAC 33:1 Chapter 23](#)
[FAQs](#)
- Judicial Interest..... [provided by the Louisiana State Bar Association](#)

