

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

OAK GROVE TOWNHOMES, LLC

AI # 212904

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

* Settlement Tracking No.
* SA-WE-21-0094
*
* Enforcement Tracking No.
* WE-PP-21-00481
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SETTLEMENT

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

I

Respondent is a limited liability company that owned and/or operated a construction project site located in Prairieville, Ascension Parish, Louisiana (“the Site”).

II

On September 21, 2021, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. WE-PP-21-00481 (Exhibit 1).

III

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

IV

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

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00), of which Two Thousand Five Hundred Sixty-Five and 33/100 Dollars (\$2,565.33) 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), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

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

VII

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

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

VIII

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

IX

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

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

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

XII

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

OAK GROVE TOWNHOMES, LLC

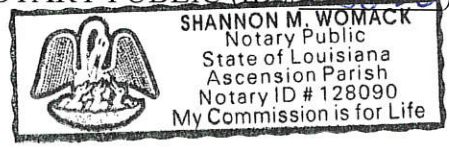
BY: Rm Olson
(Signature)

Ross D Bruce
(Printed)

TITLE: owner / member

THUS DONE AND SIGNED in duplicate original before me this 31st day of March, 20 22, at Baton Rouge, La.

Shannon Womack
NOTARY PUBLIC (ID # 128090)

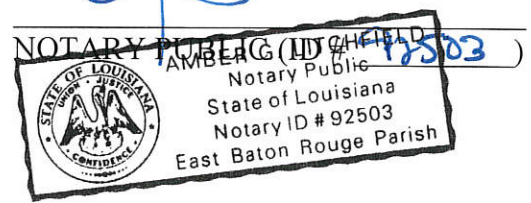


(stamped or printed)

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

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

THUS DONE AND SIGNED in duplicate original before me this 21st day of June, 20 22, at Baton Rouge, Louisiana.



(stamped or printed)

Approved: Celena J. Cage
Celena J. Cage, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY



| | | | |
|--------------------------|------------------------------|--------------------|---------------------------------------------------------------------------|
| Enforcement Tracking No. | WE-PP-21-00481 | Certified Mail No. | 7020 2450 0001 6670 4765 |
| Agency Interest (AI) No. | 212904 | Contact Name | Richard Ober, Jr. |
| Alternate ID No. | LAR10M946; LAR10N917 | Contact Phone No. | (225) 219-3135 |
| Respondent: | Oak Grove Townhomes, LLC | Facility Name: | Oak Grove Townhomes |
| | c/o Mr. Ross Bruce | Physical Location: | south side of Louisiana Highway 42, 0.15 miles east of Airline Highway |
| | Agent for Service of Process | | |
| | 4469 Bluebonnet Boulevard | City, State, Zip: | Prairieville, LA 70769 |
| Baton Rouge, LA 70809 | Parish: | Ascension Parish | |

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

FINDINGS OF FACT


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

| | | |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I. | The Respondent owned and/or operated a construction project site known as the Oak Grove Townhomes located at or near the south side of Louisiana Highway 42, 0.15 miles east of Airline Highway in Prairieville, Ascension Parish, Louisiana. The Respondent was granted authorization under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAR10M946 effective on July 23, 2018. A Notice of Extension was not received by the Department, and LPDES General Permit LAR10M946 terminated on July 22, 2019. The Respondent submitted a Notice of Intent to discharge storm water associated with construction activity greater than 5 acres with a signature date of May 14, 2020. The Respondent was granted authorization under LPDES General Permit LAR10N917 effective on May 18, 2020, with a termination date of May 17, 2021. A Notice of Extension was not received by the Department, and LPDES General Permit LAR10N917 terminated on May 17, 2021. Under the terms and conditions of LPDES General Permit LAR10N917, the Respondent was permitted to discharge storm water associated with construction activity into Bluff Swamp via local drainage, all waters of the state. | |
| | A Warning Letter dated June 24, 2021, was sent to the Respondent in regard to the inspections performed by the Department on May 7-8, 2020, July 24, 2020, and August 19, 2020. A meeting was held with the Respondent on July 28, 2021. The Department received from the Respondent, a response dated August 11, 2021, to the Warning Letter and the meeting. | |
| | Date of Violation | Description of Violation |
| II. | Inspection(s) May 7-8, 2020 | The Respondent was performing construction activities that resulted in the disturbance of five (5) acres of total land area or more without an appropriate LPDES permit. Specifically, the Respondent was granted authorization under LPDES General Permit LAR10M946 on July 23, 2018, for up to one year (July 22, 2019), as applied for in the Notice of Intent. In accordance with LPDES General Permit LAR10M946, if continuation of coverage was needed beyond the selected number of years, the Respondent was required to submit a Notice of Extension thirty (30) days before the termination date of the permit. A Notice of Extension was not received by the Department, and LPDES General Permit LAR10M946 terminated on July 22, 2019. The failure to submit a Notice of Extension 30 days before the termination date of the permit was a violation of LPDES Permit LAR10M946 (Part I, Section E.3 and Part VI.A), La. R.S. 30:2076(A)(3) and LAC 33:IX.2701.A. The continued construction activities at the site after July 22, 2019, were subject to permitting. The Respondent failed to submit an application for and obtain permit coverage under the Louisiana Pollutant Discharge Elimination System (LPDES) General Permit for Discharges of Storm Water From Construction Activities Five (5) Acres or More (LAR100000) prior to conducting the activities in violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.2511.C.1. |
| | | The Respondent submitted a Notice of Intent (NOI), with a signature date of May 14, 2020, to discharge storm water associated with construction activity greater than 5 acres. The Respondent was granted authorization under LPDES General Permit LAR10N917 effective on May 18, 2020, with a termination date of May 17, 2021. |
| III. | Inspection(s) May 7-8, 2020 | The Respondent caused and/or allowed the discharge of storm water without a permit and/or other authority from the Department. Specifically, the Respondent had discharges of storm water from its construction site from July 23, 2019 to May 17, 2020, without authorization under the Louisiana Pollutant Discharge Elimination System (LPDES) general permit to discharge storm water from construction activities of five (5) acres or more to waters of the state in violation of La. R.S. 30:2075. |
| | | The Respondent was granted authorization under LPDES General Permit LAR10N917 effective on May 18, 2020. |
| IV. | Inspection(s) July 24, 2020 & August 19, 2020 | The Respondent failed to adequately implement any portion or portions of the Storm Water Pollution Prevention Plan. Specifically, stormwater control measures had not been adequately implemented and/or maintained to control stormwater discharges. The inspections conducted by the Department on July 24, 2020 and August 19, 2020, revealed that hay bales/silt fencing around storm drains were damaged or absent in various areas, and silt was covering and/or draining into the mouth of various storm drains resulting in turbid conditions on Willow Lake. In addition, dirt was observed on La. Highway 73 on the entry and exit roads of the site. The failure to adequately implement any portion or portions of the Storm Water Pollution Prevention Plan was a violation of LPDES Permit LAR10N917 (Part IV and Part VI.A), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A. |
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| NOTICE OF POTENTIAL PENALTY | |
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| I. | Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice. |
| II. | Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Richard Ober, Jr. at (225) 219-3135 within ten (10) days of receipt of this 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. | For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance. |
| V. | To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action. |
| CONTACTS AND SUBMITTAL OF INFORMATION | |
| Enforcement Division: | Physical Address (if hand delivered): |
| Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr. | Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802 |
| HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY | |
| To expedite closure of the NOTICE OF POTENTIAL PENALTY , the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. | |
| <ul style="list-style-type: none"> • The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. • The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. • The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer. • DO NOT submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. • Before requesting closure of this NOTICE OF POTENTIAL PENALTY, please contact the Financial Services Division at 225-219-3865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. | |


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



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 9-21-2024

- Attachment(s)
- Request to Settle
 - Settlement Brochure

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| LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312 | | NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL) | |  |
| Enforcement Tracking No. | WE-PP-21-00481 | Contact Name | Richard Ober, Jr. | |
| Agency Interest (AI) No. | 212904 | Contact Phone No. | (225) 219-3135 | |
| Alternate ID No. | LAR10N917 | | | |
| Respondent: | Oak Grove Townhomes, LLC | Facility Name: | Oak Grove Townhomes | |
| | c/o Mr. Ross Bruce | Physical Location: | south side of Louisiana Highway 42, 0.15 miles east of Airline Highway | |
| | Agent for Service of Process | City, State, Zip: | Prairieville, LA 70769 | |
| | 4469 Bluebonnet Boulevard Baton Rouge, LA 70809 | Parish: | Ascension Parish | |
| SETTLEMENT OFFER (OPTIONAL) | | | | |
| <i>(check the applicable option)</i> | | | | |
| <input type="checkbox"/> | The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7. | | | |
| <input type="checkbox"/> | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-PP-21-00481), 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-PP-21-00481), 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-PP-21-00481) and has attached a justification of its offer and a description of any BEPs if included in settlement offer. | | | |
| CERTIFICATION STATEMENT | | | | |
| I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent. | | | | |
| Respondent's Signature | | Respondent's Printed Name | | Respondent's Title |
| Respondent's Physical Address | | Respondent's Phone # | | Date |
| MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW: | | | | |
| Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr. | | | | |

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

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 | |
| DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY | MAJOR | \$32,500 to \$20,000 | \$20,000 to \$15,000 | \$15,000 to \$11,000 |
| | MODERATE | \$11,000 to \$8,000 | \$8,000 to \$5,000 | \$5,000 to \$3,000 |
| | MINOR | \$3,000 to \$1,500 | \$1,500 to \$500 | \$500 to \$100 |

Degree of Risk to Human Health or Property

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

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

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

Nature and Gravity of the Violation

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

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

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



SETTLEMENT AGREEMENTS

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

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

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

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 25 FAQs |
| Judicial Interest..... | provided by the Louisiana State Bar Association |

