

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ASCENSION WASTEWATER TREATMENT,  
INC.

AI # 119486

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

\* Settlement Tracking No.  
\* SA-WE-23-0087  
\*  
\* Enforcement Tracking No.  
\* WE-CN-18-00749  
\*  
\*  
\* Docket No. 2019-15421-DEQ  
\*

SETTLEMENT AGREEMENT

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

I

Respondent is a corporation that owns and/or operates a sewage treatment plant located in Prairieville, Ascension Parish, Louisiana (“the Facility”).

II

On December 13, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-18-00749 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

#### IV

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

#### V

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 TWENTY THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$20,300.00), of which One Thousand Eight Hundred Thirty-Eight and 54/100 Dollars (\$1,838.54) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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).

#### VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement Agreement 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.

#### VII

This Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

#### VIII

This Settlement Agreement 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 Agreement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

#### IX

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.

#### X

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 Agreement 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 Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

#### XI

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement 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 attached hereto.

## XII

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

## XIII

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.

**ASCENSION WASTEWATER  
TREATMENT, INC.**

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

TITLE: \_\_\_\_\_

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

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

**LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY**


BY: \_\_\_\_\_  
Aurelia S. Giacometto, Secretary

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

Approved: *Aurelia S. Giacometto*  
Aurelia S. Giacometto, Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		<b>CONSOLIDATED COMPLIANCE ORDER &amp;                  NOTICE OF POTENTIAL PENALTY</b>		
Enforcement Tracking No.	WE-CN-18-00749	Certified Mail No.	7017 1070 0000 2657 8649	
Agency Interest (AI) No.	119486	Contact Name	Jessie Canerday	
Alternate ID No.	LA0126950	Contact Phone No.	(225) 219-3814	
Respondent:	Ascension Wastewater Treatment, Inc.	Facility Name:	Ultima Plaza	
	c/o Thomas F. Pertuit	Physical Location:	37474 Ultima Plaza Blvd.	
	Agent for Service of Process	City, State, Zip:	Prairieville, LA 70769	
	17188 Airline Highway, Ste. M 157 Prairieville, LA 70769	Parish:	Ascension	
This <b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).				
<b>FINDINGS OF FACT</b>				
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.				
I.	The Respondent owns and/or operates a sewage treatment plant (STP) serving commercial buildings at Ultima Plaza. The STP is located at 37474 Ultima Plaza Blvd., Prairieville, Ascension Parish, Louisiana. On or about June 18, 2014, the Respondent submitted to the Department an application to incorporate additional flow from Manchac Lake Apartments; the Respondent met with the Department to discuss the expansion on December 15, 2014. Coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG570241 was cancelled, and the Respondent was issued LPDES Permit LA0126950 on March 27, 2015, with an effective date of May 1, 2015. LPDES Permit LA0126950 will expire on April 30, 2020. Phase I effluent limitations were effective May 1, 2015, and lasted through the completion of construction of Manchac Lake Apartments. Phase II effluent limitations became effective upon completion of construction of Manchac Lake Apartments and last through the expiration date of the permit. Under the terms and conditions of LPDES Permit LA0126950, the Respondent is permitted to discharge treated sanitary wastewater from Outfall 001 into Welsh Gully, thence into Bayou Manchac (subsegment 040201), all waters of the state.			
	On September 11, 2018, the Department was first notified that a new, separate STP and outfall was constructed. On or about September 14, 2018, an inspection conducted by the Department observed the new STP and new outfall constructed adjacent to the existing STP and Outfall 001; the new STP serves Manchac Lake Apartments, and the existing STP serves Ultima Plaza.			
	On September 26, 2018, the Department was notified that the outfalls were tied together, resulting in one (1) external outfall and two (2) internal outfalls.			
	<b>Date of Violation</b>	<b>Description of Violation</b>		
II.	Inspection(s) & File Review 7/12/2018 & 9/27/2018	The Respondent failed to comply with LPDES permit LA0126950. Specifically, between July 2016 and June 2018, the Respondent reported exceedances of permit effluent limitations for CBOD, TSS, and ammonia nitrogen from the treatment plant serving Ultima Plaza (See Attachment A). (LA0126950 (Permit Requirements, Effluent Limitations and Monitoring Requirements, pages 1 & 2 of 4 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)		
III.	Inspection(s) 7/12/2018	The Respondent failed to properly operate and maintain its wastewater treatment plant serving Ultima Plaza. Specifically, there was floating grease in the clarifier and chlorine contact chamber, and the effluent was gray at the time of inspection. (LA0126950 (Standard Conditions for LPDES Permits, Sections A.2 and B.3), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E)		
IV.	Inspection(s) 9/14/2018	The Respondent caused and/or allowed the discharge of wastewater from a source or location not authorized by the permit. Specifically, during the inspection, a newly constructed plant and outfall adjacent to the Ultima Plaza treatment plant was discharging wastewater from Manchac Lake Apartments. (La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D) On September 26, 2018, the Respondent tied together the new outfall and the previously existing Outfall 001.		
V.	Inspection(s) & File Review 9/14/2018 & 9/27/2018	The Respondent failed to obtain prior approval from the Office of Environmental Services for any new proposed discharges at the site. Specifically, on September 11, 2018, the Department was notified that a new STP and outfall was constructed to serve Manchac Lakes Apartments; an inspection conducted by the Department on or about September 14, 2018, confirmed a new outfall was constructed and discharging. (LA0126950 (Permit Requirements, Narrative Requirements N-4, page 4 of 4 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), LAC 33:IX.501A, and LAC 33:IX.2701.A) On September 26, 2018, the Respondent tied together the new outfall and the previously existing Outfall 001 and began sampling as per Phase II effluent limitations.		
VI.	File Review 9/27/2018	The Respondent failed to submit relevant facts in a permit application. Specifically, on or about June 18, 2014, the Respondent submitted to the Department an application for an individual permit due to an increased flow to the Ultima Plaza plant that would allow the plant to serve Manchac Lake Apartments, in addition to Ultima Plaza. The application included one (1) STP and one (1) external outfall only. However, a new STP and outfall were constructed as described in Paragraph I of the "Findings of Fact" portion of this order. Also, on or about April 30, 2014, plans and specifications were submitted to the Louisiana Department of Health for a separate STP to serve Manchac Lake Apartments. (LA0126950 (Standard Conditions for LPDES Permits, Sections A.2 and D.8), LA. R.S. 30:2076(A)(3) and LAC 33:IX.2701.L.8)		



<b>ORDER</b>													
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:													
<b>I.</b>	To take, immediately upon receipt of this <b>COMPLIANCE ORDER</b> , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting all of the violations described in the "Findings of Fact" portion.												
<b>II.</b>	To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this <b>COMPLIANCE ORDER</b> . This report and all other reports or information required to be submitted to the Enforcement Division by this <b>COMPLIANCE ORDER</b> shall be submitted to the Department at the address specified in this document.												
<b>III.</b>	To immediately cease, upon receipt of this <b>COMPLIANCE ORDER</b> , any unauthorized discharges from the Respondent's facility to waters of the state.												
<b>IV.</b>	To submit to the Water Permits Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , all sampling results or analytical data for the plant serving Manchac Lake Apartments.												
<b>V.</b>	To address the information identified in Findings of Fact, Paragraph I, and in accordance with the powers enumerated in La. R.S. 30:2011(D)(2), the Respondent is to carry out the compliance schedule, included as Attachment B, within the time periods provided. During the time provided by the attached compliance schedule, the Respondent shall comply with the discharge limits and monitoring requirements contained in the attached compliance schedule.												
<b>VI.</b>	All applicable Water Quality Regulations shall remain in full force and effect and shall remain enforceable at the Department's discretion. The compliance schedule limits and monitoring requirements listed in Attachment B shall supersede the effluent limitations in LPDES Permit LA0126950 and remain in effect until a modification to the permit is issued or the Respondent is notified by the Department in writing.												
<b>VII.</b>	Nothing in this <b>COMPLIANCE ORDER</b> is to be interpreted as relieving the Respondent from complying with the Water Quality Regulations nor is it to be interpreted as authorizing any discharges not in compliance with those limits contained in the regulations. Based on the information submitted by the Respondent, the limits in this <b>COMPLIANCE ORDER</b> have been determined by the Department to not exceed any water quality standards.												
<b>VIII.</b>	<p>If changes or alterations are proposed to either wastewater treatment plant or plants that require the submission of plans and specifications for approval from the Louisiana Department of Health (LDH), the Respondent shall submit such plans to the Water Permits Division within thirty (30) days of submission to the LDH. A third-party engineer must certify that the proposed design is capable of meeting the following tertiary effluent limits:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">PARAMETER</th> <th style="text-align: left;">LIMIT</th> </tr> </thead> <tbody> <tr> <td>Ammonia Nitrogen, total (as N)</td> <td>Monthly average maximum of 2 mg/L</td> </tr> <tr> <td>Ammonia Nitrogen, total (as N)</td> <td>Daily maximum of 4 mg/L</td> </tr> <tr> <td>BOD, Carbonaceous, 5-day (20 degrees C)</td> <td>Monthly average maximum of 5 mg/L</td> </tr> <tr> <td>BOD, Carbonaceous, 5-day (20 degrees C)</td> <td>Daily maximum of 10 mg/L</td> </tr> <tr> <td>Oxygen, dissolved</td> <td>Monthly average minimum of 5 mg/L</td> </tr> </tbody> </table>	PARAMETER	LIMIT	Ammonia Nitrogen, total (as N)	Monthly average maximum of 2 mg/L	Ammonia Nitrogen, total (as N)	Daily maximum of 4 mg/L	BOD, Carbonaceous, 5-day (20 degrees C)	Monthly average maximum of 5 mg/L	BOD, Carbonaceous, 5-day (20 degrees C)	Daily maximum of 10 mg/L	Oxygen, dissolved	Monthly average minimum of 5 mg/L
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Oxygen, dissolved	Monthly average minimum of 5 mg/L												
<b>RIGHT TO APPEAL</b>													
<b>I.</b>	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this <b>COMPLIANCE ORDER</b> . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> .												
<b>II.</b>	The request for an adjudicatory hearing shall specify the provisions of the <b>COMPLIANCE ORDER</b> on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper left-hand corner of the first page of this document and should be directed to the address specified in this document.												
<b>III.</b>	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this <b>COMPLIANCE ORDER</b> may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law's (DAL) Procedural Rules. The Department may amend or supplement this <b>COMPLIANCE ORDER</b> prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.												
<b>IV.</b>	This <b>COMPLIANCE ORDER</b> shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.												
<b>V.</b>	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this <b>COMPLIANCE ORDER</b> shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this <b>COMPLIANCE ORDER</b> becoming a permanent part of its compliance history.												
<b>VI.</b>	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this <b>COMPLIANCE ORDER</b> and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.												
<b>VII.</b>	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.												
<b>NOTICE OF POTENTIAL PENALTY</b>													
<b>I.</b>	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.												



- 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 Jessle Canerday at (225) 219-3814 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.
- III. The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
- IV. This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

**CONTACTS AND SUBMITTAL OF INFORMATION**

<b>Enforcement Division:</b> Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Jessle Canerday	<b>Hearing Requests:</b> Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-18-00749 Agency Interest No. 119486
<b>Water Permits Division (if necessary):</b> Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	<b>Physical Address (if hand delivered):</b> Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

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

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

If you have questions or need more information, you may contact Jessle Canerday at (225) 219-3814 or [jessle.canerday@la.gov](mailto:jessle.canerday@la.gov).

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

Date: 12-13-18

- Attachment(s)**
- Request to Close
  - Attachment A
  - Attachment B
  - Settlement Agreements Flyer



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION <b>CONSOLIDATED COMPLIANCE ORDER &amp;</b> POST OFFICE BOX 4312 <b>NOTICE OF POTENTIAL PENALTY</b> BATON ROUGE, LOUISIANA 70821-4312 <b>REQUEST TO CLOSE</b>			
			
<b>Enforcement Tracking No.</b>	WE-CN-18-00749	<b>Contact Name</b>	Jessie Canerday
<b>Agency Interest (AI) No.</b>	119486	<b>Contact Phone No.</b>	(225) 219-3814
<b>Alternate ID No.</b>	LA0126950		
<b>Respondent:</b>	Ascension Wastewater Treatment, Inc.	<b>Facility Name:</b>	Ultima Plaza
	c/o Thomas F. Pertuit Agent for Service of Process	<b>Physical Location:</b>	37474 Ultima Plaza Blvd.
	17188 Airline Highway, Ste. M 157	<b>City, State, Zip:</b>	Prairieville, LA 70769
	Prairieville, LA 70769	<b>Parish:</b>	Ascension
<b>STATEMENT OF COMPLIANCE</b>			
<b>STATEMENT OF COMPLIANCE</b>		<b>Date Completed</b>	<b>Copy Attached?</b>
A written report was submitted in accordance with Paragraph II of the "Order" portion of the <b>COMPLIANCE ORDER</b> .			
All necessary documents were submitted to the Department within 30 days of receipt of the <b>COMPLIANCE ORDER</b> in accordance with Paragraph(s) IV of the "Order" portion of the <b>COMPLIANCE ORDER</b> and the Compliance Schedule in Attachment B.			
All items in the "Findings of Fact" portion of the <b>COMPLIANCE ORDER</b> were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the <b>COMPLIANCE ORDER</b> . Final compliance was achieved as of:			
<b>SETTLEMENT OFFER (OPTIONAL)</b>			
<i>(check the applicable option)</i>			
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-18-00749)</b> , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-18-00749)</b> , the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-</b> the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</li> </ul>		
<input type="checkbox"/>	The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-18-00749)</b> and has attached a justification of its offer and a description of any BEPs if included in settlement offer.		
<b>CERTIFICATION STATEMENT</b>			
I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.			
<b>Respondent's Signature</b>	<b>Respondent's Printed Name</b>	<b>Respondent's Title</b>	
<b>Respondent's Physical Address</b>		<b>Respondent's Phone #</b>	<b>Date</b>
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>			
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Jessie Canerday			

If you have questions or need more information, you may contact Jessie Canerday at (225) 219-3814 or jessie.canerday@la.gov.

## Attachment A

## Effluent Limit Violations

Date	Outfall	Parameter	Permit Limit	Sample Value
07/31/2016	001A	BOD, carbonaceous [5 day, 20 C] Daily Maximum	15 mg/L	15.6 mg/L
10/31/2016	001A	Nitrogen, ammonia total [as N] Daily Maximum	8 mg/L	13.3 mg/L
10/31/2016	001A	Nitrogen, ammonia total [as N] Monthly Average	4 mg/L	12 mg/L
05/31/2017	001A	BOD, carbonaceous [5 day, 20 C] Daily Maximum	15 mg/L	16.4 mg/L
06/30/2017	001A	BOD, carbonaceous [5 day, 20 C] Daily Maximum	15 mg/L	44 mg/L
06/30/2017	001A	BOD, carbonaceous [5 day, 20 C] Monthly Average	10 mg/L	28 mg/L
07/31/2017	001A	BOD, carbonaceous [5 day, 20 C] Daily Maximum	15 mg/L	72.6 mg/L
07/31/2017	001A	BOD, carbonaceous [5 day, 20 C] Monthly Average	10 mg/L	37.8 mg/L
07/31/2017	001A	Solids, total suspended Daily Maximum	23 mg/L	47 mg/L
07/31/2017	001A	Solids, total suspended Monthly Average	15 mg/L	26 mg/L
08/31/2017	001A	BOD, carbonaceous [5 day, 20 C] Daily Maximum	15 mg/L	19.2 mg/L
08/31/2017	001A	BOD, carbonaceous [5 day, 20 C] Monthly Average	10 mg/L	13.1 mg/L
08/31/2017	001A	Solids, total suspended Daily Maximum	23 mg/L	27 mg/L
08/31/2017	001A	Solids, total suspended Monthly Average	15 mg/L	20 mg/L
10/31/2017	001A	Nitrogen, ammonia total [as N] Daily Maximum	8 mg/L	10.5 mg/L
10/31/2017	001A	Nitrogen, ammonia total [as N] Monthly Average	4 mg/L	5.3 mg/L
06/30/2018	001A	BOD, carbonaceous [5 day, 20 C] Daily Maximum	15 mg/L	23 mg/L
06/30/2018	001A	BOD, carbonaceous [5 day, 20 C] Monthly Average	10 mg/L	20 mg/L

## Attachment B

## Compliance Schedule

Task	Completion Date
Submit LPDES Permit Application for Modification	Within 30 days of issuance of this Compliance Order
Notify the Enforcement Division when LPDES Permit is issued	Within 15 days of LPDES Permit issuance

The Respondent shall submit progress reports to the Enforcement Division each calendar quarter until the completion of the aforementioned schedule. The Respondent shall submit each progress report within fifteen (15) days following the end of the calendar quarter. The first progress report is due January 15, 2018. Additionally, if any activity cannot be completed by the due date specified in the schedule, the Respondent shall submit a certification of non-compliance to the Department within fifteen (15) days after the scheduled due date. If the Respondent reports non-compliance with a scheduled event, the certification shall include a discussion of the cause of the delay, an anticipated date of completion, and a discussion of any impairment of a subsequent due date. Upon completion of all scheduled events, the Respondent shall submit a final certification stating that all activities have been achieved.

## Discharge Limits and Monitoring Requirements

## Outfall 001 – Comingled discharge from Outfalls 101 &amp; 201

Parameter	Mass Limitations (lb/day)		Concentration Limitations (mg/l unless stated)		Measurement Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max		
CBOD	4.88	--	--	--	2/month	Grab
TSS	14.64	--	--	--	2/month	Grab
Ammonia Nitrogen	1.95	--	--	--	2/month	Grab
Flow	Report	Report	--	--	Continuously	Record
Total Nitrogen	Report	Report	--	--	1/quarter	Grab
Total Phosphorus	Report	Report	--	--	1/quarter	Grab
Fecal Coliform	--	--	200 (#/100 mL)	400 (#/100 mL)	2/month	Grab
pH	--	--	6.0 min (SU)	9.0 max (SU)	2/month	Grab

Outfall 101 – Treated sanitary wastewater from the Ultima Plaza plant (prior to mixing with other waters)

Parameter	Mass Limitations (lb/day)		Concentration Limitations (mg/l unless stated)		Measurement Frequency <sup>1</sup>	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max		
CBOD	---	---	5	10	2/month	Grab
TSS	---	---	15	23	2/month	Grab
Ammonia Nitrogen	---	---	2	4	2/month	Grab
Oil and Grease	---	---	---	15	2/month	Grab
Dissolved Oxygen	---	---	5 (minimum)	---	2/month	Grab
Total Nitrogen	---	---	Report	Report	1/quarter	Grab
Total Phosphorus	---	---	Report	Report	1/quarter	Grab
Flow	Report	Report	---	---	2/month	Measurement

Outfall 201 – Treated sanitary wastewater from the Manchac Lake Apartments plant (prior to mixing with other waters)

Parameter	Mass Limitations (lb/day)		Concentration Limitations (mg/l unless stated)		Measurement Frequency <sup>1</sup>	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max		
CBOD	---	---	5	10	2/month	Grab
TSS	---	---	15	23	2/month	Grab
Ammonia Nitrogen	---	---	2	4	2/month	Grab
Dissolved Oxygen	---	---	5 (minimum)	---	2/month	Grab
Total Nitrogen	---	---	Report	Report	1/quarter	Grab
Total Phosphorus	---	---	Report	Report	1/quarter	Grab
Flow	Report	Report	---	---	2/month	Measurement

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge point(s) prior to mixing with other waters.

Laboratory procedures and analyses shall be conducted by a commercial laboratory that has been certified by the Department in accordance with the requirements set forth under LAC 33:1.Subpart 3, Chapters 49-55. A list of laboratories that have received accreditation is available on the Department's website located at: <http://www1.deq.louisiana.gov/portal/DIVISIONS/PublicParticipationandPermitSupport/LouisianaLaboratoryAccreditationProgram/AccreditedLaboratories.aspx>. Questions concerning the program may be directed to 225-219-3247.

Monitoring results shall be summarized on Monthly Discharge Monitoring Reports (DMRs) and monthly no later than the fifteenth (15<sup>th</sup>) day of the following month. The Respondent shall continue the submission of DMRs by the fifteenth (15<sup>th</sup>) day of the month following each monthly monitoring period until the Respondent is issued a modification to LPDES permit LA0126950 or otherwise notified in writing by the Department. **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY NO. WE-CN-18-00749** and the facility's Agency Interest (AI) number should be referenced on all DMRs and spreadsheets submitted in accordance with this **COMPLIANCE ORDER**. Instructions for the proper completion of electronic DMRs may be found on the Department's website at <http://deq.louisiana.gov/page/netdmr>.

Subject to the terms of this **COMPLIANCE ORDER** and LPDES Permit LA0126950, the Respondent shall at all times make reasonable efforts to properly operate and maintain all facilities and systems of treatment and control which are installed or used by Respondent to achieve compliance with the conditions of these interim limitations and monitoring requirements. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Whenever practicable under the terms and conditions of the **COMPLIANCE ORDER**, this provision requires the operation of back-up auxiliary facilities or similar systems, which are installed by a facility only when the operation is necessary to achieve compliance with the conditions of these interim limitations and monitoring requirements.

# 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 ARRANGEMENTS

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>

