

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**BLUE CUBE OPERATIONS LLC**

**AI # 196702**

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

\* **Settlement Tracking No.**  
\* **SA-HE-24-0012**  
\*  
\* **Enforcement Tracking Nos.**  
\* **HE-CN-20-00676**  
\* **HE-CN-20-00676A**  
\* **HE-CN-22-00766**  
\*  
\*  
\* **Docket Nos. 2022-4522-DEQ**  
\* **2024-8084-DEQ**  
\*

**SETTLEMENT AGREEMENT**

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

**I**

Respondent is a limited liability company that owns and/or operates a chemical production unit located in Plaquemine, Iberville Parish, Louisiana (“the Facility”).

**II**

On March 17, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. HE-CN-20-00676 (Exhibit 1).

On August 2, 2022, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. HE-CN-20-00676A (Exhibit 2).

On January 20, 2023, the Department issued to Respondent a Consolidated Compliance

Order & Notice of Potential Penalty, Enforcement Tracking No. HE-CN-22-00766 (Exhibit 3).

III

In response to the Consolidated Compliance Orders & Notices of Potential Penalty, Respondent made timely requests for hearings (HE-CN-20-00676 and HE-CN-22-00766).

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 ELEVEN THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$11,900.00), of which Three Thousand Two Hundred Thirty-Three and 49/100 Dollars (\$3,233.49) 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), the Consolidated Compliance Orders & Notices of Potential Penalty, and Amended 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 Jefferson 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. The Respondent shall provide its tax identification number when submitting payment. 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.


**BLUE CUBE OPERATIONS LLC**

BY: Kevin Santos Cook  
(Signature)

Kevin Santos Cook  
(Printed)

TITLE: Site leader


THUS DONE AND SIGNED in duplicate original before me this 28<sup>th</sup> day of August, 20 24, at Baton Rouge, La.

Luann Woods  
NOTARY PUBLIC (ID # \_\_\_\_\_)  
 Luann M. Woods  
Notary Public  
Notary ID No. 165994  
Livingston Parish, Louisiana  
(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Aurelia S. Giacometto, Secretary

BY: [Signature]  
Jerrie "Jerry" Lang, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 26<sup>th</sup> day of November, 20 24, at Baton Rouge, Louisiana.

Deidra Johnson  
NOTARY PUBLIC (ID # 51205)  
 DEIDRA JOHNSON  
NOTARY PUBLIC  
EAST BATON ROUGE PARISH  
LOUISIANA  
NOTARY ID NO. 51205  
(stamped or printed)

Approved: [Signature]  
Jerrie "Jerry" Lang, Assistant Secretary



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 17 2021

CERTIFIED MAIL (7019 2970 0000 6032 7537)  
RETURN RECEIPT REQUESTED

**BLUE CUBE OPERATIONS LLC**  
c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, Louisiana 70816

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. HE-CN-20-00676  
AGENCY INTEREST NO. 196702**

Dear Sir/Madam:

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 **BLUE CUBE OPERATIONS (RESPONDENT)** for the violation(s) described therein.

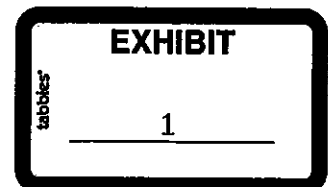
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Ashley Manuel at (225) 219-3794 or [Ashley.Manuel@la.gov](mailto:Ashley.Manuel@la.gov).

Sincerely,

Celena J. Cage  
Administrator  
Enforcement Division

CJC/AMM/amm  
Alt ID No. LAR000086074;  
Attachment



c: Blue Cube Operations LLC  
c/o Allyson Ledet, Environmental Manager  
P.O. Box 424  
Plaquemine, Louisiana 70765

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

**IN THE MATTER OF**

**BLUE CUBE OPERATIONS LLC  
IBERVILLE PARISH  
ALT ID NO. LAR000086074**

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**ENFORCEMENT TRACKING NO.**

**HE-CN-20-00676**

**AGENCY INTEREST NO.**

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

**196702**

**CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BLUE CUBE OPERATIONS LLC (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), 30:2050.2 and 30:2050.3(B).

**FINDINGS OF FACT**

I.

The Respondent owns and/or operates a chemical production unit within the confines of the Dow Chemical Company's Louisiana branch (Dow-LA), known to the Department as Blue Cube Operations, located at 21255 Highway 1 South (a portion of) in Plaquemine, Iberville Parish, Louisiana. The facility is a permitted hazardous waste Treatment, Storage, and Disposal (TSD) facility. The Respondent has notified the Department as a large quantity generator of hazardous waste and has been assigned EPA Identification No. LAR000086074. The Respondent currently operates under Hazardous Waste Operating Permit LAR000086074-OP-1. Hazardous Waste Operating Permit LAR000086074-OP-1 was transferred to the Respondent on or about September 24, 2015. LAR000086074-OP-1 expired effectively on May 9, 2019. However, the Respondent submitted a timely permit renewal application to the Department on or



about November 8, 2018. The permit renewal application is still under review by the Department. Therefore, Hazardous Waste Operating Permit LAR000086074-OP-1 has been administratively continued.

II.

On or about August 21, 2020, the Waste Permits Division issued a Notice of Deficiency (NOD) #2 to the Respondent. The Respondent received NOD #2 via certified mail on or about September 10, 2020. The Respondent submitted a response to NOD #2 on or about September 22, 2020, requesting a sixty (60) days extension to respond to the items listed in the NOD #2. In correspondence dated December 8, 2020, the Respondent submitted a written response to the Waste Permits Division in reference to NOD #2.

III.

On or about June 11, 2019, June 12, 2019, June 13, 2019, and June 24, 2019, the Department conducted inspections at the above referenced facility to determine the degree of compliance with the Act and the supporting Hazardous Waste Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to provide ancillary equipment with secondary containment, in violation of LAC 33:V.1907.F.1, LAC 33:V.309.A, and Permit Condition V.A.3.b.2 of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, the two (2) level gauges on the east end of permitted hazardous waste Tank D-751 with associated bleed valves located directly above the dike wall were not completely within secondary containment. In a written response dated October 29, 2020, a representative of the Respondent stated that the dike wall around this area was modified to ensure the valves were located within required secondary containment prior to closure of the trench system and Shot Pond in August 2019.
- B. The Respondent failed to properly label containers storing used oil with the words "Used Oil", in violation of LAC 33:V.4013.D.1. Specifically, three (3) fifty-five (55) gallon containers of used oil located in the Chlorine Plant were incorrectly labeled as "Waste Oil". In an email dated August 2, 2019, a representative of the Respondent submitted a photograph of the hazardous waste container labeled as "Used Oil". This violation has been addressed.

- C. The Respondent failed to analyze hazardous waste annually as required by Section 2.6 and Table 4 of the Waste Analysis Plan (WAP), in violation of LAC 33:V.309.A, and Permit Condition III.C of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, the Respondent failed to analyze the T-39 hazardous waste annually. During the June 11, 2019 inspection, a representative of the Respondent stated that facility relies on Dupont, the generator of T-39 waste, to sample and analyze the waste annually. In a written response dated October 29, 2020, a representative of the Respondent stated that copies of the analytical results are kept on file and were offered to the inspector for review during the onsite inspection.
- D. The Respondent failed to maintain records of inspections in an inspection log or summary for at least three (3) years from the date of the inspection, in violation of LAC 33:V.1509.D, LAC 33:V.309.A, and Permit Condition III.E of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, the Respondent did not maintain records of the following inspections:
- a.) 2016 Block 46 Permitted Tanks and R-750 Daily Inspections – June 2016 through December 31, 2016;
  - b.) 2017 Block 46 Permitted Tanks and R-750 Daily Inspections – May 7, 2017, June 1, 2017, June 12, 2017, and December 12, 2017;
  - c.) 2017 Block 16 Permitted Tanks and F-700 Daily Inspection Records – March 2017, April 12, 2017, April 15, 2017, May 14, 2017, October 25, 2017, and December 31, 2017;
  - d.) 2018 Block 46 Permitted Tanks and R-750 Daily Inspection Records – March 2018, October 27, 2018, November 26, 2018, and December 10, 2018;
  - e.) 2018 Block 16 Permitted Tanks and F-700- January 1, 2018, January 22, 2018, February 13 – February 17, 2018, March 2018, April 25, 2018, June 11, 2018, July 28, 2018, and August 30, 2018;
  - f.) 2019 Block 46 Permitted tanks and R-750 – March 15, 2019; and
  - g.) 2019 Block 16 Permitted Tanks and F-700- January 14, 2019 and January 22, 2019

In the written response dated October 29, 2020, a representative of the Respondent stated that verification processes have been implemented to ensure all required inspections are maintained in the operating record as required.

- E. The Respondent failed to annually provide a review of the Waste Analysis Plan (WAP) to the Administrative Authority in the annual report stating whether any revisions are required to stay abreast of changes in the Environmental Protection Agency (EPA) methods and/or state regulatory provisions, in violation of LAC 33:V.309.A, and Permit Condition III.C.1 of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, during the inspections, the Respondent failed to provide a review of the WAP in the annual reports. In an email dated August 2, 2019, a representative of the Respondent stated that the WAP has been reviewed annually and there have been no revisions required for changes in the EPA methods and/or State regulatory provisions, therefore no reporting was required.
- F. The Respondent failed to annually submit a certified statement indicating that any commercial laboratory, wherever located, that provides chemical analyses, analytical results, or other test data to the Department, by contract or by agreement is accredited in accordance with the laboratory accreditation requirements of LAC 33:V.513, in violation of LAC 33:V.309.A and Permit Condition III.C.2 of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, the Respondent did not annually submit certified statements regarding the Louisiana Environmental Laboratory Accreditation Program (LELAP) certification of laboratories. In an email dated August 2, 2019, a representative of the Respondent stated that the facility has not contracted a new laboratory for hazardous waste analysis in the last three (3) years. Additionally, in the written response dated October 29, 2020, a representative of the Respondent stated that since BCO has not contracted a different laboratory for hazardous waste analysis within the last three (3) years, no annual submission shall be required and the lab contracted for these particular services is appropriately certified.
- G. The Respondent failed to provide waste re-characterization results and related lab analyses in the annual report, in violation of LAC 33:V.309.A and Permit Condition III.C.3 of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, the

Respondent failed to include waste re-characterization results and related lab analyses in the 2018 Hazardous Waste Annual Report.

- H. The Respondent failed to ensure that all required facility personnel take part in hazardous waste management procedures, as specified in LAC 33:V.1515.A.2, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent failed to provide documented hazardous waste management training records to the Department. During the inspections, the Respondent failed to provide documented training records to ensure that Turner Services contractors handling hazardous waste paint D001, D004, D007, D010, F003, and F005 received documented training in hazardous waste management procedures. In an email dated August 2, 2019, a representative of the Respondent stated that Turner Services contractors were not able to provide pre-transport hazardous waste management procedure training records for their personnel at the facility during the inspection. The representative of the Respondent stated that Turner personnel working at the facility do receive hazardous waste training relevant to the positions in which they are employed and all contractors at the facility must successfully complete the site safety indoctrination prior to performing any work within the facility's manufacturing areas. This training includes discussion on hazardous and non-hazardous waste handling and internal labeling of containers and is repeated on an annual basis.
- I. The Respondent caused and/or allowed the storage of hazardous waste prohibited from land disposal without the approval or authorization from the Department, in violation of LAC 33:V.2205.A. Specifically, the Respondent stored 108,878 pounds of T-780 tank solids D019, D022, D028, D033, D034, D039 for over three (3) years. In the written response dated October 29, 2020, a representative of the Respondent stated that the sample material was packaged with similar material and sent off-site for disposal.
- J. The Respondent failed to document the basis for a hazardous waste determination, in violation of LAC 33:V.1111.A.3. Specifically, the Respondent failed to document the basis for Quality Assurance/Quality Control (QA/QC) Lab waste liquids D019, D028, D039 generated by the QA/QC lab in Block 46. In the written response dated October 29, 2020, a representative of the Respondent stated that although Blue Cube Operations (BCO) has been unable to locate a documented hazardous waste determination for the

Quality Assurance/Quality Control (QA/QC) Lab waste liquids D019, D028, D039, hazardous waste determination has been documented since the time of the inspections.

**COMPLIANCE ORDER**

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Hazardous Waste Regulations, Hazardous Waste Operating Permit LAR000086074-OP-1.

II.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure all hazardous waste are analyzed in accordance with Section 2.6 and Table 4 of the WAP and Permit Condition III.C of Hazardous Waste Operating Permit LAR000086074-OP-1.

III.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure all required inspection records are documented and made available for inspection at the facility in accordance with LAC 33:V.1509.D and Permit Condition III.E of Hazardous Waste Operating Permit LAR000086074-OP-1.

IV.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure certified statements regarding the Louisiana Environmental Laboratory Accreditation Program (LELAP) certification of laboratories are submitted annually in accordance with Permit Condition III.C.2 of Hazardous Waste Operating Permit LAR000086074-OP-1.

V.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure waste re-characterization results and related lab analyses are included in the Hazardous Waste Annual Report in accordance with Permit Condition III.C.3 of Hazardous Waste Operating Permit LAR000086074-OP-1.

VI.

To ensure, upon receipt of this **COMPLIANCE ORDER**, that all facility personnel have successfully completed the appropriate training that prepares them to perform their duties in a manner that

ensures the facility's compliance with the hazardous waste regulations. All personnel training records shall be maintained in accordance with LAC 33:V.1515.A.2.

VII.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, allowing the storage of prohibited hazardous waste at the facility.

VIII.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure a hazardous waste determination is documented on all wastes generated in accordance with LAC 33:V.1111.A.3.

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  
Attn: Ashley Manuel  
Re: Enforcement Tracking No. HE-CN-20-00676  
Agency Interest No. 196702

**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. HE-CN-20-00676  
Agency Interest No. 196702

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 (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 Ashley Manuel (225) 219-3794 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 17<sup>th</sup> day of March, 2021.

  
\_\_\_\_\_  
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: Ashley Manuel

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.	HE-CN-20-00676	Contact Name	Ashley Manuel	
Agency Interest (AI) No.	196702	Contact Phone No.	(225) 219 - 3794	
Alternate ID No.	LAR000086074; LAR000086074-OP-1			
Respondent:	Blue Cube Operations LLC	Facility Name:	Blue Cube Operations	
	c/o C T Corporation System	Physical Location:	21255 Highway 1 South (a portion of)	
	Agent for Service of Process	City, State, Zip:	Plaquemine, LA 70765	
	3867 Plaza Tower Drive	Parish:	Iberville	
Baton Rouge, Louisiana 70816				
<b>STATEMENT OF COMPLIANCE</b>				
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 of the "Order" portion of the COMPLIANCE ORDER.		N/A	N/A	
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		N/A	N/A	
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		N/A	N/A	
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:				
<b>SETTLEMENT OFFER (OPTIONAL)</b>				
<i>(check the applicable option)</i>				
	<input type="checkbox"/> The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.			
	<input type="checkbox"/> In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-CN-20-00676), 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 (HE-CN-20-00676), 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.			
	• Monetary component =	\$ _____		
	• Beneficial Environmental Project (BEP) component (optional)=	\$ _____		

<p>• <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.</p>		
<p>The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (HE-CN-20-00676) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p>		
<p><b>CERTIFICATION STATEMENT</b></p>		
<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>		
<p><b>Respondent's Signature</b></p>	<p><b>Respondent's Printed Name</b></p>	<p><b>Respondent's Title</b></p>
<p><b>Respondent's Physical Address</b></p>	<p><b>Respondent's Phone #</b></p>	<p><b>Date</b></p>
<p><b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b></p>		
<p>Louisiana Department of Environmental Quality                  Office of Environmental Compliance                  Enforcement Division                  P.O. Box 4312                  Baton Rouge, LA 70821                  Attn: Ashley Manuel</p>		

**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.



JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

AUG 02 2022

CERTIFIED MAIL (7018 0360 0001 5039 2694)  
RETURN RECEIPT REQUESTED

**BLUE CUBE OPERATIONS LLC**  
c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, Louisiana 70816


**RE: AMENDED CONSOLIDATED COMPLIANCE ORDER &  
NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. HE-CN-20-00676A  
AGENCY INTEREST NO. 196702**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **BLUE CUBE OPERATIONS LLC (RESPONDENT)** for the violations described therein.

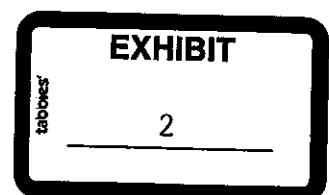
Any questions concerning this action should be directed to Jennifer Boudreaux at (225) 219-3636 or [Jennifer.Boudreaux@la.gov](mailto:Jennifer.Boudreaux@la.gov).

Sincerely,

  
Angela Marse  
Administrator  
Enforcement Division

AM/JMB/jmb  
Alt ID No. LAR000086074  
Attachment

c: Blue Cube Operations LLC  
c/o Allyson Ledet, Environmental Manager  
P.O. Box 424  
Plaquemine, LA 70765



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

**IN THE MATTER OF**

**BLUE CUBE OPERATIONS LLC  
IBERVILLE PARISH  
ALT ID NO. LAR000086074**

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

\*  
\*  
\* **ENFORCEMENT TRACKING NO.**  
\*  
\* **HE-CN-20-00676A**  
\*  
\* **AGENCY INTEREST NO.**  
\*  
\* **196702**  
\*

**AMENDED CONSOLIDATED COMPLIANCE ORDER &  
NOTICE OF POTENTIAL PENALTY**

The Louisiana Department of Environmental Quality (the Department) hereby amends the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. HE-CN-20-00676** issued to **BLUE CUBE OPERATIONS LLC (RESPONDENT)** on March 17, 2021 in the above-captioned matter as follows:

1.

The Department hereby amends Paragraph I to read as follows:

“1.

The Respondent owns and/or operates a chemical production unit within the confines of the Dow Chemical Company’s Louisiana branch (Dow-LA), known to the Department as Blue Cube Operations, located at 21255 Highway 1 South (a portion of) in Plaquemine, Iberville Parish, Louisiana. The facility is a permitted hazardous waste Treatment, Storage, and Disposal (TSD) facility. The Respondent has notified the Department as a large quantity generator of hazardous waste and has been assigned EPA Identification No. LAR000086074. On or about September 24, 2015, the Respondent was issued Hazardous Waste Operating Permit LAR000086074-OP-1. LAR000086074-OP-1 expired effectively on May 9, 2019. However, the Respondent submitted a timely permit renewal application to the Department on or about November 8, 2018. The Respondent currently operates under Hazardous Waste Operating

Permit LAR000086074-OP-1, which became effective on September 29, 2021, and will expire on September 29, 2031.”

II.

The Department hereby rescinds Paragraph III.C in its entirety.

III.

The Department hereby amends Paragraph III.D to read as follows:

“III.

D. The Respondent failed to maintain records of inspections in an inspection log or summary for at least three (3) years from the date of the inspection, in accordance with LAC 33:V.1911, in violation of LAC 33:V.309.A and Permit Condition III.E of Hazardous Waste Operating Permit LAR000086074-OP-1. Specifically, the Respondent did not maintain records of the following inspections:

- a.) 2016 Block 46 Permitted Tanks and R-750 Daily Inspections – June 2016 through December 31, 2016;
- b.) 2017 Block 46 Permitted Tanks and R-750 Daily Inspections – May 7, 2017, June 1, 2017, June 12, 2017, and December 12, 2017;
- c.) 2017 Block 16 Permitted Tanks and F-700 Daily Inspection Records – March 2017, April 12, 2017, April 15, 2017, May 14, 2017, October 25, 2017, and December 31, 2017;
- d.) 2018 Block 46 Permitted Tanks and R-750 Daily Inspection Records – March 11-31 2018, October 27, 2018, November 26, 2018, and December 10, 2018;
- e.) 2018 Block 16 Permitted Tanks and F-700- January 1, 2018, January 22, 2018, February 13 – February 17, 2018, March 2018, April 25, 2018, June 11, 2018, July 28, 2018, and August 30, 2018;
- f.) 2019 Block 46 Permitted tanks and R-750 – March 15, 2019; and
- g.) 2019 Block 16 Permitted Tanks and F-700- January 14, 2019 and January 22, 2019

In the written response dated October 29, 2020, a representative of the Respondent stated that verification processes have been implemented to ensure all required inspections are maintained in the operating record as required.”

IV.

The Department hereby rescinds Paragraph III.G in its entirety.

V.

The Department hereby amends Paragraph III.H to read as follows:

“III.

- H. The Respondent failed to ensure that all required facility personnel take part in hazardous waste management procedures, as specified in LAC 33:V.1515.D.4, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent failed to have documented hazardous waste management training records onsite. During the inspections, the Respondent failed to provide documented training records to ensure that Turner Services contractors handling hazardous waste paint D001, D004, D007, D010, F003, and F005 received documented training in hazardous waste management procedures. In an email dated August 2, 2019, a representative of the Respondent stated that Turner Services contractors were not able to provide pre-transport hazardous waste management procedure training records for their personnel at the facility during the inspection. The representative of the Respondent stated that Turner personnel working at the facility do receive hazardous waste training relevant to the positions in which they are employed and all contractors at the facility must successfully complete the site safety indoctrination prior to performing any work within the facility’s manufacturing areas. This training includes discussion on hazardous and non-hazardous waste handling and internal labeling of containers and is repeated on an annual basis. On or about May 10, 2021, a representative of the Respondent submitted a copy of the hazardous waste training presentation and a copy of one (1) employee training certificate to the Department. Upon review of the training presentation, the presentation did not include information regarding the handling of hazardous waste paint and/or other hazardous waste the Respondent manages. Also, the training did not include instruction on how distinguish hazardous waste from nonhazardous waste and how to label hazardous waste containers. Additionally, only one (1) Turner employee was certified to manage hazardous waste. The Department has determined the training presentation and records to be deficient.”



VI.

The Department hereby amends Paragraph III.I to read as follows:

“III.

- I. The Respondent caused and/or allowed the storage of hazardous waste prohibited from land disposal without the approval or authorization from the Department, in violation of LAC 33:V.2205.B. Specifically, the Respondent stored a 2-gallon bucket marked as a lab sample of T-780 tank sludge (D019, D022, D028, D033, D034, D039), dated March 1, 2016, onsite for over one (1) year. In the written response dated October 29, 2020, a representative of the Respondent stated that the sample material was packaged with similar material and sent off-site for disposal.”

VII.

The Department hereby rescinds Order Paragraph II in its entirety.

VIII.

The Department hereby rescinds Order Paragraph V in its entirety.

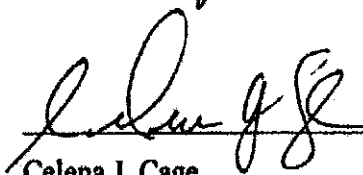
IX.

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. HE-CN-20-00676** and **AGENCY INTEREST NO. 196702** as if reiterated herein.

X.

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

Baton Rouge, Louisiana, this 20<sup>th</sup> day of August, 2022.



Celena J. Cage  
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  
Post Office Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Jennifer Boudreaux**

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

JAN 20 2023

CERTIFIED MAIL (7021 1970 0000 3978 7650)  
RETURN RECEIPT REQUESTED

**BLUE CUBE OPERATIONS LLC**  
c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, Louisiana 70816

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. HE-CN-22-00766  
AGENCY INTEREST NO. 196702**

Dear Sir/Madam:

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 **BLUE CUBE OPERATIONS LLC (RESPONDENT)** for the violations described therein.

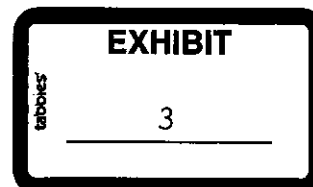
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Jennifer Boudreaux at (225) 219-3636 or [Jennifer.Boudreaux@la.gov](mailto:Jennifer.Boudreaux@la.gov).

Sincerely,

Angela Marse  
Administrator  
Enforcement Division

AM/JMB/jmb  
Alt ID No. LAR000086074  
Attachment



c: Blue Cube Operations LLC  
c/o Greg Davison, EH&S Specialist  
Post Office Box 424  
Plaquemine, LA 70765

Blue Cube Operations LLC  
c/o Don Pulliam, EHS Manager  
Post Office Box 424  
Plaquemine, LA 70765

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

**IN THE MATTER OF**

**BLUE CUBE OPERATIONS LLC  
IBERVILLE PARISH  
ALT ID NO. LAR000086074**

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

\*  
\*  
\* **ENFORCEMENT TRACKING NO.**  
\*  
\* **HE-CN-22-00766**  
\*  
\* **AGENCY INTEREST NO.**  
\*  
\* **196702**  
\*

**CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BLUE CUBE OPERATIONS LLC (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), 30:2050.2 and 30:2050.3(B).

**FINDINGS OF FACT**

I.

The Respondent owns and/or operates a chemical production unit within the confines of the Dow Chemical Company's Louisiana branch (Dow-LA), known to the Department as Blue Cube Operations, LLC, located at 21255 Highway 1 South (a portion of) in Plaquemine, Iberville Parish, Louisiana. The facility is classified as a large quantity generator of hazardous waste and a hazardous waste treatment, storage, and disposal (TSD) facility. The Respondent operates under EPA Identification No. LAR000086074. The Respondent operates under Hazardous Waste Operating Permit LAR000086074-OP-RN3, which became effective on September 29, 2021, and will expire on September 29, 2031.

II.

On or about March 17, 2021, the Department issued Consolidated Compliance Order & Notice of Potential Penalty (CONOPP) HE-CN-20-00676 to the Respondent. CCONOPP HE-CN-20-00676 was

received by the Respondent via certified mail on or about March 25, 2021. The Respondent submitted a hearing request to the Department via email on April 23, 2021. The Respondent and the Department agreed to enter into dispute resolution discussions regarding CONOPP HE-CN-20-00676 on May 19, 2021. On or about June 2, 2022, the Respondent's hearing request was granted by the Department. On or about June 20, 2022, the hearing request was received and docketed by the Division of Administrative Law. As of November 21, 2022, CONOPP HE-CN-20-00676 remains pending at the Division of Administrative Law.

III.

On or about August 2, 2022, the Department issued Amended Consolidated Compliance Order & Notice of Potential Penalty (ACONOPP) HE-CN-20-00676A to the Respondent. ACONOPP HE-CN-20-00676A was received by the Respondent via certified mail on or about August 8, 2022. To date, the Department has not received a response to ACONOPP HE-CN-20-00676A.

IV.

On or about May 25, 2022, May 26, 2022, June 1, 2022, June 2, 2022, and August 16, 2022, the Department conducted an inspection at the above referenced facility to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to ensure its secondary containment system, a liner external to the tanks, was designed or operated to contain 100 percent of the capacity of the largest tank within its boundary, in violation of LAC 33:V.309.A, LAC 33:V.1907.E.1.a, and Operating Permit LAR000086074-OP-RN3, Permit Condition V.B.2.b. Specifically, one (1) drain valve for the combined secondary containment system for permitted tanks D-42-B, D-92-A, D-700, and permitted thermal treatment unit (TTU) F-700, which are located in Block 16, was in the open position. During the May 25, 2022 inspection, representatives of the Respondent confirmed that the drain valve was open. Prior to the conclusion of the inspection, a representative of the Respondent closed the valve.
- B. The Respondent failed to sufficiently inspect at least once each operating day its secondary containment system, an external liner, to detect erosion or signs of releases of hazardous waste in violation of LAC 33:V.309.A, LAC 33:V.1529.D.8, LAC 33:V.1911.C.2, and Operating Permit LAR000086074-OP-RN3, Permit Condition V.B.3.c.(1). Specifically, the Respondent failed to perform sufficient daily inspections of the following secondary containment systems and duly log in the operating record:

- i. In the secondary containment system described in Findings of Fact Paragraph IV.A, multiple areas of the lined floor were covered with mud or debris at the time of the May 25, 2022 inspection. The material prevented the inspection of portions of the secondary containment system for deficiencies, including but not limited to cracks and/or other defects.
  - ii. A June 1, 2022 review of the daily inspection log dated May 25, 2022, for the secondary containment system described in Findings of Fact Paragraph IV.A revealed the Respondent did not note the deficiencies noted during daily inspections, including mud, debris, cracks, and/or other defects.
  - iii. In the secondary containment system for permitted hazardous waste tanks D-13 and D-15, located in Block 16, multiple areas of the unlined floor were covered with mud at the time of the May 26, 2022 inspection. The material prevented the inspection of portions of the secondary containment system for deficiencies, including but not limited to cracks and/or other defects.
  - iv. A June 1, 2022 review of the daily inspection log dated May 26, 2022, for the secondary containment system described in Findings of Fact Paragraph IV.B.iii revealed the Respondent did not note deficiencies noted during daily inspections, including mud.
  - v. In the secondary containment system for permitted hazardous waste tanks D-750 and D-751, located Block 46, multiple areas of the lined floor were covered with dirt at the time of the May 26, 2022 inspection. The material prevented the inspection of portions of the secondary containment system for deficiencies noted during daily inspections, including but not limited to cracks and/or other defects.
  - vi. A June 1, 2022 review of the daily inspection log dated May 26, 2022, for the secondary containment system described in Findings of Fact Paragraph IV.B.v revealed the Respondent did not note deficiencies noted during daily inspections, including dirt, cracks, and/or other defects.
- C. The Respondent failed to ensure that its secondary containment system, a liner external to the tanks, is free of cracks or gaps in violation of LAC 33:V.309.A, LAC 33:V.1907.E.1.c, and Operating Permit LAR000086074-OP-RN3, Permit Condition

V.B.2.b. Specifically, during the May 25, 2022, and May 26, 2022 inspection, deficiencies, including multiple cracks and/or other defects, were noted in the liners of the following:

- i. Portions of the secondary containment system described in Findings of Fact Paragraph IV.A.
- ii. Portions of the secondary containment system described in Findings of Fact Paragraph IV.B.v.

D. The Respondent failed to indicate the hazards of the contents of satellite accumulation containers accumulating hazardous waste, in violation of LAC 33:V.1011.A.5.b. Specifically, the following satellite accumulation containers were not labeled with an indication of the hazards:

- i. One (1) 25-gallon poly DP satellite accumulation container located in the north end of the secondary containment area described in Findings of Fact Paragraph IV.A, which was labeled with the words "Hazardous Waste". The container was closed and in good condition. During the May 25, 2022 inspection, a representative of the Respondent stated the satellite accumulation container contained hazardous waste (D009, D019, D022, D028, D032, D034, D035, D039, D040) known as "F-700 Per/Tet Heavies (Solvent Heavies)" that was generated from cleaning process equipment for maintenance activities.
- ii. Two (2) 25-gallon poly DP satellite accumulation containers located outside Building 2902 within Block 29 – Caustic Unit, which were accumulating hazardous waste. Both containers were closed and in good condition. During the May 26, 2022 inspection, a representative of the Respondent stated the satellite accumulation containers contained hazardous waste (D001, D035, F003, and F005) consisting of spent aerosol cans generated from activities within Building 2902. Prior to the conclusion of the inspection, a representative of the Respondent properly labeled both containers with hazard communication labels.
- iii. Two (2) bins used as satellite accumulation containers located in the GCO Lab under and/or next to lab hood #1, which were accumulating waste laboratory glassware and/or spent laboratory personal protective equipment (PPE).



Neither of the bins were properly closed and/or labeled at the time of the August 16, 2022 inspection. During the inspection, a representative of the Respondent stated the satellite accumulation bins contained hazardous waste (D001, D002, D019, D022, D028, D029, D032, D033, D034, D039, D040, K016, K019, U045, U077, and U080).

- E. The Respondent failed to mark or label containers of hazardous waste with an indication of the hazards of the contents, in violation of LAC 33:V.1015.B.5.a.ii. Specifically, six (6) 25-gallon poly DP containers located in the less than 90-day container storage area within Block 17 – EDC Plant were not marked or labeled with an indication of the hazards of the contents. The containers were closed, in good condition, and labeled with the words “Hazardous Waste”. During the May 26, 2022 inspection, a representative of the Respondent stated the contents of the containers was hazardous waste (D019, D022, D028, D032, D033, D034, D039, D040, D043, K016, and K019) known as “PCB containing Sludge/Debris”. Prior to the conclusion of the inspection, a representative of the Respondent placed hazard communication labels on four (4) of the six (6) containers described above.
- F. The Respondent failed to mark or label satellite accumulation containers accumulating hazardous waste with the words “Hazardous Waste”, in violation of LAC 33:V.1011.A.5.a. Specifically, the following satellite accumulation containers were not labeled with the words “Hazardous Waste”:
  - i. One (1) of the satellite accumulation containers described in Findings of Fact Paragraph IV.D.ii. Prior to the conclusion of the inspection, a representative of the Respondent properly labeled the container with the words “Hazardous Waste”.
  - ii. One (1) 25-gallon poly DP satellite accumulation container located in Building 5601 within Block 56, which was labeled with an indication of the hazards of the contents. The container was closed and in good condition. During the May 26, 2022 inspection, a representative of the Respondent stated the contents of the container was hazardous waste (D001, D035, F003, F005) consisting of spent aerosol cans generated from activities within Building 5601. Prior to the

conclusion of the inspection, the Respondent's representative properly labeled the container with the words "Hazardous Waste".

- iii. Two (2) bins used as satellite accumulation containers described in Findings of Fact Paragraph IV.D.iii.
- G. The Respondent failed to record in the operating record, an inspection log or summary, inspections of its secondary containment system, conducted at least once each operating day in accordance with LAC 33:V.1911.B, in violation of LAC 33:V.309.A, LAC 33:V.1509.D, LAC 33:V.1529.B.8, LAC 33:V.1911.G, and Operating Permit LAR000086074-OP-RN3, Permit Condition V.B.3.c.(1). Specifically, a June 1, 2022 review of the daily inspection records dated June 2019 through December 2019, January 2020 through December 2020, January 2021 through December 2021, and January 2022 through August 16, 2022, revealed the Respondent did not document inspections, conducted once each operating day, of the secondary containment system for permitted tanks D-13, D-15, D-42B, D-92A, and D-700. During the August 16, 2022 inspection, a representative of the Respondent stated facility personnel performed daily inspections of the secondary containment system for the aforementioned permitted tanks.
- H. The Respondent failed to record in the operating record, an inspection log or summary, daily visual inspections of its combustion unit secondary containment system, in accordance with Operating Permit LAR000086074-OP-RN3, Permit Condition V.A.4.b, in violation of LAC 33:V.309.A, LAC 33:V.1509.D, LAC 33:V.1529.B.8, and Operating Permit LAR000086074-OP-RN3, Permit Condition V.A.4.c. Specifically, a June 1, 2022 review of the inspection logs dated June 2019 through December 2019, January 2020 through December 2020, January 2021 through December 2021, and January 2022 through August 16, 2022, revealed the Respondent did not document inspections, conducted once each operating day, of the secondary containment system for permitted TTU F-700, which is located in Block 16. During the August 16, 2022 inspection, a representative of the Respondent stated facility personnel performed daily inspections of the secondary containment system for the aforementioned permitted TTU.

- I. The Respondent failed to keep a satellite accumulation container of hazardous waste closed during accumulation, except when necessary to add, remove, or consolidate hazardous waste, in violation of LAC 33:V.1011.A.4.a. Specifically, the two (2) bins used as satellite accumulation containers described in Findings of Fact Paragraph IV.D.iii were open at the time of the August 16, 2022 inspection. No waste was being added, removed, or consolidated during the inspection.

### **COMPLIANCE ORDER**

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Hazardous Waste Regulations and Hazardous Waste Operating Permit LAR000086074-OP-RN3.

II.

To remove, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the mud, dirt, and/or debris from the secondary containment systems, including but not limited to those described in Findings of Fact Paragraph IV.B. Documentation of the ultimate disposition of the mud, dirt, and/or debris shall be submitted to the Enforcement Division within fifteen (15) days of completion. Additionally, the Respondent shall institute procedures to ensure daily inspections of secondary containment systems are sufficient to detect gaps and/or cracks, erosion, or signs of releases of hazardous waste, that such inspections are logged in the operating record, and that any deficiencies noted during the daily inspections are noted in the operating record in accordance with LAC 33:V.1509.D, LAC 33:V.1529.B.8, LAC 33:V.1911.C.2, LAC 33:V.1911.G, and Operating Permit LAR000086074-OP-RN3.

III.

To complete repairs, within ninety (90) days after receipt of this **COMPLIANCE ORDER**, to all gaps or cracks in all secondary containment systems, including but not limited to those described in Findings of Fact Paragraph IV.C. Documentation of the repairs shall be submitted to the Enforcement Division within fifteen (15) days of completion. Additionally, the Respondent shall institute procedures to ensure that all secondary containment systems are free of cracks or gaps in accordance with LAC 33:V.1907.E.1.c and Operating Permit LAR000086074-OP-RN3.

IV.

To label, immediately upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous

waste, including but not limited to those described in Findings of Fact Paragraphs IV.D.i, IV.D.iii, and IV.E, with an indication of the hazards of their contents. Documentation of the proper labeling of the container(s) of hazardous waste identified in Findings of Fact Paragraphs IV.D.i, IV.D.iii, and IV.E shall be submitted to the Enforcement Division within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The Respondent shall also institute procedures to ensure all containers of generated hazardous waste are properly labeled with an indication of the hazards of their contents.

V.

To label, immediately upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste, including but not limited to those described in Findings of Fact Paragraph IV.F.iii, with the words "Hazardous Waste". Documentation of the proper labeling of the container(s) of hazardous waste identified in Findings of Fact Paragraph IV.F.iii shall be submitted to the Enforcement Division within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The Respondent shall also institute procedures to ensure all containers of generated hazardous waste are properly labeled with the words "Hazardous Waste" and an indication of the contents.

VI.

To close, immediately upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste, except when necessary to add, remove, or consolidate hazardous waste. Documentation of the proper closure of the container(s) of hazardous waste identified in Findings of Fact Paragraph IV.I shall be submitted to the Enforcement Division within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The Respondent shall also institute procedures to ensure all containers of generated hazardous waste are kept closed during accumulation, except when necessary to add, remove, or consolidate hazardous waste.

VII.

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  
Attn: **Jennifer Boudreaux**  
Re: **Enforcement Tracking No. HE-CN-22-00766**  
**Agency Interest No. 196702**

**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. HE-CN-22-00766**  
**Agency Interest No. 196702**

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 (DAL) Procedural Rules. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right

to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

**NOTICE OF POTENTIAL PENALTY**

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Jennifer Boudreaux at (225) 219-3636 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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. 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 20<sup>th</sup> day of January, 2023.

  
\_\_\_\_\_  
Celena J. Cage  
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: Jennifer Boudreaux**



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.	HE-CN-22-00766	Contact Name	Jennifer Boudreaux
Agency Interest (AI) No.	196702	Contact Phone No.	(225) 219-3636
Alternate ID No.	LAR000086074		
Respondent:	Blue Cube Operations LLC	Facility Name:	Blue Cube Operations LLC
	c/o C T Corporation System	Physical Location:	21255 Highway 1 South
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Plaquemine, LA 70764
	Baton Rouge, LA 70816	Parish:	Iberville

**STATEMENT OF COMPLIANCE**

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph VII of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs IV, V, and VI of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 105 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph III 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 33:1.Subpart 1.Chapter 7.
- In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (HE-CN-22-00766), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (HE-CN-22-00766), 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. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion.
  - Monetary component = \$ \_\_\_\_\_
  - Beneficial Environmental Project (BEP) component (optional) = \$ \_\_\_\_\_
  - DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (HE-CN-22-00766) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

<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>		
<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 P.O. Box 4312 Baton Rouge, LA 70821 Attn: Jennifer Boudreaux		