

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-24-0043
FUTURE PIPE INDUSTRIES, INC.	*	
	*	Enforcement Tracking No.
AI # 22750	*	AE-CN-20-00191
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Future Pipe Industries, 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 fiberglass composite pipe manufacturer located in Baton Rouge, East Baton Rouge, Louisiana (“the Facility”).

II

On April 27, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-20-00191 (Exhibit 1).

III

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

IV

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

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00), of which Nine Hundred Eighty-Three and 94/100 Dollars (\$983.94) 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).

V

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.

VI

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.

VII

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.

VIII

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

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge 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.

X

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.

XI

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

XII

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

FUTURE PIPE INDUSTRIES, 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
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 

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

April 27, 2020

CERTIFIED MAIL (7018 1130 0001 5655 0218)
RETURN RECEIPT REQUESTED

FUTURE PIPE INDUSTRIES, INC.
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. AE-CN-20-00191
AGENCY INTEREST NO. 22750**

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 **FUTURE PIPE INDUSTRIES, INC. (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 Lauren Upton at 225-219-3093.

Sincerely,

Celeria J. Cage
Administrator
Enforcement Division

CJC/LAU/la
Alt ID No. 0840-00173
Attachment

EXHIBIT
1

c: **Future Pipe Industries, Inc.**
Weldon Cupp
Post Office Box 83277
Baton Rouge, Louisiana 70884-3277

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

IN THE MATTER OF

**FUTURE PIPE INDUSTRIES, INC.
EAST BATON ROUGE PARISH
ALT ID NO. 0840-00173**

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

*
*
* **ENFORCEMENT TRACKING NO.**
*
* **AE-CN-20-00191**
*
* **AGENCY INTEREST NO.**
*
* **22750**
*

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **FUTURE PIPE INDUSTRIES, INC. (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 Future Pipe Industries, Inc. (the Facility), a fiberglass composite pipe manufacturer, located at 15915 Perkins Road, East Baton Rouge Parish, Baton Rouge, Louisiana. The Facility operates or has operated under the authority of the following Title V Air Quality Permits:

0840-00173-V0	9/12/2008	9/12/2013
0840-00173-V1	1/15/2014	1/15/2019

II.

On or about August 9, 2019, the Department performed an inspection of the Respondent's facility to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection and subsequent file review on March 3, 2020:

- A. The Respondent continued operations after Title V Permit No. 0840-00173-V1 expired on January 15, 2019. The operation of the Facility without a permit is a violation of Specific Requirement No. 51 of Title V Permit No. 0840-00173-V1, LAC 33:III.535, LAC 33:III.501.C.4, LAC 33:III.507.B.2, LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).
- B. The Respondent failed to submit the Title V Permit No. 0840-00173-V1 renewal application six (6) months prior to the January 15, 2019 expiration date. Title V Permit No. 0840-00173-V1 was issued on January 15, 2014. To date, the Respondent has not submitted a Title V Permit No. 0840-00173-V1 renewal application. The failure to submit a permit application to renew an existing permit at least six (6) months prior to the date of permit expiration is a violation of Specific Requirement No. 51 of Title V Permit No. 0840-00173-V1, 40 CFR 70.5(a)(1)(iii), LAC 33:III.535, LAC 33:III.501.C.4, LAC 33:III.507.E.4, and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to submit the following Title V Monitoring Reports:

	REPORT	REPORTING REQUIREMENT	DUE DATE
1.	2018 Second Half Title V Semiannual Monitoring Report	Report due semiannually by the 31 st of March for the preceding calendar year	March 31, 2019
2.	2018 Annual Title V Compliance Certification	Report due annually by the 31 st of March for the preceding calendar year	March 31, 2019
3.	2019 First Half Title V Semiannual Monitoring Report	Report due semiannually by the 30 th of September for the same calendar year	September 30, 2019

Each failure to submit the Title V Annual Compliance Certification and the Title V Semiannual Monitoring Reports in the table above is a violation of Specific Requirement No. 51 of Title V Permit No. 0840-00173-V1, LAC 33:III.501.C.4, LAC 33:III.535, and La. R.S. 30:2057(A)(2).

D. The Respondent is required to submit Compliance Status Reports in accordance with 40 CFR 63.5910. The Respondent failed to submit the following Compliance Status Reports:

	REPORT	REPORTING REQUIREMENT	DUE DATE
1.	2018 Second Half Semiannual Compliance Status Report	Report due semiannually by the 31 st of January for the preceding calendar year	January 31, 2019
2.	2019 First Half Semiannual Compliance Status Report	Report due semiannually by the 31 st of July for the same calendar year	July 31, 2019
3.	2019 Second Half Semiannual Compliance Status Report	Report due semiannually by the 31 st of January for the preceding calendar year	January 31, 2020

Each failure to submit the Semiannual Compliance Status Reports in the table above is a violation of Specific Requirement No. 35 of Title V Permit No. 0840-00173-V1, 40 CFR 63.5910, which language has been adopted as a Louisiana regulation in LAC 33:III.5122, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately cease, upon receipt of this COMPLIANCE ORDER, all unauthorized emissions from the Respondent's facility and to take any and all steps necessary to comply with the Air Quality Regulations.

II.

To submit, within thirty (30) days after receipt of this COMPLIANCE ORDER, a permit application to renew Title V Permit No. 0840-00173-V1 to the Office of Environmental Services and provide a copy to the Enforcement Division.

III.

To continue, immediately upon receipt of this COMPLIANCE ORDER, complying with the permit limitations, operating parameters, reporting requirements, and all other requirements outlined in the Title V Permit No. 0840-00173-V1 until such time as a new permit is issued by the Department or the Respondent is notified in writing by the Department to cease following these requirements.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the 2018 Title V Second Half Semiannual Monitoring Report, 2019 Title V First Half Semiannual Monitoring Report, and the 2018 Title V Annual Compliance Certification as referenced in Paragraph C.1-3 of the **FINDINGS OF FACT** portion of this **COMPLIANCE ORDER**.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the 2018 Second Half Semiannual Compliance Status Report and the 2019 First Half Semiannual Compliance Status Report as referenced in Paragraph D.1-3 of the **FINDINGS OF FACT** portion of this **COMPLIANCE ORDER**.

VI.

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 violation(s) 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: Lauren Upton
Re: Enforcement Tracking No. AE-CN-20-00191
Agency Interest No. 22750

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. AE-CN-20-00191
Agency Interest No. 22750

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 Lauren Upton at 225-219-3093 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 27th day of April, 2020.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

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

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



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.	AE-CN-20-00191	Contact Name	Lauren Upton
Agency Interest (AI) No.	22750	Contact Phone No.	225-219-3093
Alternate ID No.	0840-00173		
Respondent:	Future Pipe Industries, Inc.	Facility Name:	Future Pipe Industries, Inc.
	c/o C T Corporation System	Physical Location:	15915 Perkins Road
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Baton Rouge, Louisiana 70810
	Baton Rouge, Louisiana 70816	Parish:	East Baton Rouge Parish

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A permit application and copy was submitted to the Department within thirty (30) 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 thirty (30) days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs IV & V of the "Order" portion of the COMPLIANCE ORDER.		
A written report was submitted to the Department within thirty (30) days of receipt of the COMPLIANCE ORDER in accordance with Paragraph VI of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<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.Subpart 1.Chapter 7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-20-00173), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-20-00173), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-20-00173) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT		
<p><i>I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.</i></p>		
Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:		
<p>Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Lauren Upton</p>		