

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**CITY OF BATON ROUGE AND PARISH  
OF EAST BATON ROUGE**

**AI # 4843**

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

\* Settlement Tracking No.  
\* SA-AE-24-0069  
\*  
\* Enforcement Tracking No.  
\* AE-PP-18-00693  
\*  
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\*  
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**SETTLEMENT AGREEMENT**

The following Settlement Agreement is hereby agreed to between City of Baton Rouge and Parish of East Baton Rouge (“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 governmental entity that owns and/or operates a municipal wastewater treatment facility located in Baton Rouge, East Baton Rouge Parish, Louisiana (“the Facility”).

**II**

On September 18, 2020, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-18-00693 (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 THIRTY-SIX THOUSAND AND NO/100 DOLLARS (\$36,000.00), of which Two Thousand Four Hundred Eight and 15/100 Dollars (\$2,408.15) 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), the 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.

**CITY OF BATON ROUGE AND PARISH  
OF EAST BATON ROUGE**

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

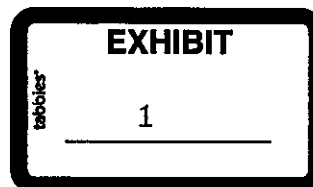


CHUCK CARR BROWN, Ph.D.  
SECRETARY

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

September 18, 2020

CERTIFIED MAIL (7017 0530 0000 5978 6264)  
RETURN RECEIPT REQUESTED



**CITY OF BATON ROUGE and PARISH OF EAST BATON ROUGE**  
c/o Honorable Sharon Weston Broome  
Mayor-President  
222 Saint Louis Street, 3<sup>rd</sup> Floor  
Baton Rouge, LA 70802

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-PP-18-00693  
AGENCY INTEREST NO. 4843**

Dear Sir/Madam:

On or about May 9, 2018, an inspection of the **NORTH WASTEWATER TREATMENT PLANT** (the facility), a municipal wastewater treatment facility, owned and/or operated by the **CITY OF BATON ROUGE and PARISH OF EAST BATON ROUGE (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act), Air Quality Regulations, and the Chemical Accident Prevention Provisions (CAPP) regulations. The facility is located at 50 Woodpecker Street, Baton Rouge, East Baton Rouge Parish, Louisiana. The facility currently operates under Minor Source Air Permit No. 0840-00433-00 issued on March 20, 2019. According to the Louisiana Department of Environmental Quality CAPP Registration Form dated October 3, 2019, the Respondent de-registered from the CAPP program, effective on October 8, 2018.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to document the maximum intended inventory of the regulated substance, failed to update the safety information when a major change has occurred that made the information inaccurate, and failed to maintain Hazard Assessment Documentation updates. Specifically, the Respondent's hazard assessment documentation referenced using two (2) 5,000 gallon storage tanks; however, the facility switched to using four (4) 1-ton cylinders. The documentation for the offsite consequence analysis that was available onsite had not been updated to the current process, and the version of the hazard assessment plan available was dated 1998. Additionally, the Risk Management Plan (RMP) listed the use of ton cylinders.

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Specifically, the RMP listed one (1) long ton of  $CL_2$  as the worst-case scenario (WCS); however, one (1) short ton would be an appropriate WCS with ton cylinders. This updated amount was not updated in the hazard assessment. The failure to document the maximum intended inventory of the regulated substance, update the safety information when a major change has occurred that made the information inaccurate, and maintain the Hazard Assessment Documentation updates is a violation of 40 CFR 68.48(a)(2), 40 CFR 68.48(c), and 40 CFR 68.200, which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).

- B. The Respondent failed to perform a hazard review at least once every five (5) years as required by 40 CFR 68.50(d). Specifically, the last hazard review was performed in December 2011, and a hazard review was due on or about December 2016. This is a violation of 40 CFR 68.50(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).
- C. The Respondent failed to prepare an emergency shutdown procedure as required by 40 CFR 68.52(b)(4), failed to prepare a normal shutdown procedure as required by 40 CFR 68.52(b)(5), and failed to prepare a startup procedure following a normal or emergency shutdown as required by 40 CFR 68.52(b)(6). At the time of the inspection, the Respondent had not developed these procedures. Each failure to prepare a procedure is a violation of 40 CFR 68.52(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).
- D. The Respondent failed to consult with employees on the frequency of refresher training as required by 40 CFR 68.54(b). Specifically, the facility's training does not include employee consultation about the frequency with which training should be held. This is a violation of 40 CFR 68.54(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).
- E. The Respondent failed to meet frequencies for maintaining the mechanical integrity of chlorine equipment as required by 40 CFR 68.56(d). Specifically, the following preventative maintenance (PM) activities were not performed at the required frequency, or were incomplete:

DATE(S)	REQUIRED FREQUENCY	COMPLETION STATUS
February 2017 October 2017	Monthly	Not completed.
November 21, 2016	Quarterly	Completed over one (1) year late, the Respondent was unable to find the previous record of performance.
April 3, 2017		Completed over one (1) month late. This was previously completed on November 21, 2016.
February 27, 2018		Completed four (4) months late. This was previously completed on July 28, 2017.
2016	Annual	Not completed. The annual maintenance was previously completed in April 2015.
2017		This was Incomplete. The annual maintenance only covered one (1) of eight (8) maintenance activities.

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DATE(S)	REQUIRED FREQUENCY	COMPLETION STATUS
March 16, 2018	Biennial	Completed eleven (11) months late. This was previously performed on April 16, 2015.

Each missed or incomplete PM is a violation of 40 CFR 68.56(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).

- F. The Respondent failed to perform a compliance audit every three (3) years as required by 40 CFR 68.58(a). Specifically, the last compliance audit was performed in April 2012, and compliance audits were due on or before April 2015 and April 2018. Each failure to perform an audit is a violation of 40 CFR 68.58(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).
- G. The Respondent failed to promptly determine and document an appropriate response to each action item noted in the April 2012 compliance audit as required by 40 CFR 68.58(d). Specifically, the following three (3) action items noted in the April 2012 compliance audit, were still open at the time of the Department's inspection: records for the RMP program were not easily found and the Respondent was unable to obtain copies, annual reviews of the RMP checklist were not well documented, and the operating and maintenance manuals and emergency response plan (ERP) needed to be reviewed and updated. This is a violation of 40 CFR 68.58(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).
- H. The Respondent failed to review and update the RMP prior to submission to the Environmental Protection Agency (EPA) as required by 40 CFR 68.190(a). Specifically, the 2014 RMP had the following inaccurate information at the time of submission: out of service chlorine tanks were included, the most recent hazard review was completed in 2004, and the most recent compliance audit completed in 2006. This is a violation of 40 CFR 68.190(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S.30:2057(A)(2).

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.

Prior to the issuance of any additional appropriate enforcement action, 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 Enforcement Writer, Madison Kirkland at (225) 219-3165 or [Madison.Kirkland@la.gov](mailto:Madison.Kirkland@la.gov) within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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 in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross



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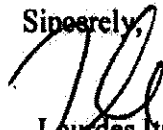
revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this 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.

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

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.


Sincerely,



Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

LI/MLK/mlk  
Alt ID No. 0840-00433

c: City of Baton Rouge and Parish of East Baton Rouge  
c/o Richard Speer, Director, Department of Environmental Services  
P.O. Box 1471  
Baton Rouge, LA 70821

<b>LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY</b> <b>OFFICE OF ENVIRONMENTAL COMPLIANCE</b> <b>ENFORCEMENT DIVISION</b> <b>POST OFFICE BOX 4312</b> <b>BATON ROUGE, LOUISIANA 70821-4312</b>		<b>NOTICE OF POTENTIAL PENALTY</b> <b>REQUEST TO SETTLE (OPTIONAL)</b>		
Enforcement Tracking No.	AE-PP-18-00693	Contact Name	Madison Kirkland	
Agency Interest (AI) No.	4843	Contact Phone No.	225-219-3165	
Alternate ID No.	0840-00433	Contact Email	Madison.Kirkland@la.gov	
Respondent:	City of East Baton Rouge and Parish of East Baton Rouge	Facility Name:	North Wastewater Treatment Plant	
	c/o Honorable Sharon Weston Broome	Physical Location:	50 Woodpecker Street	
	Mayor-President			
	222 Saint Louis Street, 3rd Floor	City, State, Zip:	Baton Rouge, LA 70807	
	Baton Rouge, LA 70802	Parish:	East Baton Rouge	
<b>SETTLEMENT OFFER (OPTIONAL)</b>				
(check the applicable option)				
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-18-00693), 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 (AE-PP-18-00693), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional) = \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</b></li> </ul>			
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-18-00693) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
<b>CERTIFICATION STATEMENT</b>				
<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>				
Respondent's Signature		Respondent's Printed Name		Respondent's Title
Respondent's Physical Address		Respondent's Phone #		Date
<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: Madison Kirkland				