

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CITY OF WINNFIELD

AI # 28158, 28157

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

* **Settlement Tracking No.**
* **SA-AE-24-0023**
*
* **Enforcement Tracking No.**
* **AE-CN-19-00432**
*
*
*
*
*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between City of Winnfield (“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 facilities located in Winnfield, Winn Parish, Louisiana (“the Facilities”).

II

On December 4, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-19-00432 (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 TWELVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$12,500.00), of which One Thousand Two Hundred Seventy-Six and 86/100 Dollars (\$1,276.86) 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 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 Winn 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 WINNFIELD

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**
Courtney J. Burdette, 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

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE			
ENFORCEMENT DIVISION		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY	
POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312			
Enforcement Tracking No.	AE-CN-19-00432	Certified Mail No.	7018 1130 0002 1720 3930
Agency Interest (AI) Nos.	28158 and 28157	Contact Name	Christopher Clement
Alternate ID No.	N/A	Contact Phone No.	(225) 219-3748
Respondent:	City of Winnfield	Facility Name:	City of Winnfield Wastewater Treatment Plant and City of Winnfield Water Treatment Plant
	c/o Honorable George Moss, Mayor	Physical Location:	1003 McLeod Drive between 409 and 412 South Beville Street
	120 E. Main Street	City, State, Zip:	Winnfield, LA 71483
	Winnfield, LA 71483	Parish:	Winn
This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).			
FINDINGS OF FACT			
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.			
I.	The Respondent owns and/or operates the City of Winnfield Wastewater Treatment Plant (AI 28158), a wastewater treatment facility located at 1003 McLeod Drive in Winnfield, Winn Parish, Louisiana and the City of Winnfield Water Treatment Plant (AI 28157) located between 409 and 412 South Beville Street in Winnfield, Winn Parish, Louisiana. The facilities are registered as Program Level 2 under the Chemical Accident Prevention Provisions (CAPP) program and are therefore subject to 40 CFR 68 CAPP requirements.		
	Date of Violation	Description of Violation	
II.	Inspection(s) November 27, 2018	The Respondent failed to update the offsite consequence analysis for AI 28158. Specifically, the Respondent failed to define the population, as described by 40 CFR 68.30(b), and environmental receptors, as described by 40 CFR 68.33(b), within a circle with its center at the point of release and a radius determined by the distance to the endpoint. This is a violation of 40 CFR 68.30(a) and 40 CFR 68.33(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). The inspector noted that the Respondent now uses RMP*Comp™ for endpoint modeling and MARPLOT® for defining offsite impacts.	
III.	Inspection(s) November 27, 2018	The Respondent failed to conduct a hazard review once every five (5) years for AI 28158. The Respondent conducted a hazard review on December 6, 2005. The next hazard review was due December 6, 2010 but was not performed until December 12, 2013. 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). In an email to the inspector dated January 3, 2019, the Respondent provided the 2018 hazard review.	
IV.	Inspection(s) November 27, 2018 and November 29, 2018	The Respondent did not have a procedure for emergency shutdown and operations for either AI 28158 or AI 28157. The Respondent's procedure for changing chlorine cylinders covered the process of unloading, changing, and loading chlorine cylinders, but did not include procedures for emergency shutdown and operations. This is a violation of 40 CFR 68.52(b)(4), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In an email to the inspector dated January 3, 2019, the Respondent provided the procedures for emergency shutdown and operations during a major chlorine leak and a minor chlorine leak.	
V.	Inspection(s) November 27, 2018 and November 29, 2018	The Respondent did not have a procedure for equipment inspections for either AI 28158 or AI 28157. Specifically, the Respondent's procedure for changing chlorine cylinders covered the process of unloading, changing, and loading chlorine cylinders, but did not include procedures for equipment inspections. This is a violation of 40 CFR 68.52(b)(8), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).	
VI.	Inspection(s) November 27, 2018 and November 29, 2018	The Respondent failed to train operators on operating procedures at AI 28158 and AI 28157. Specifically, Section V of the Respondent's Risk Management Plan (RMP) contains training policies and requirements; however, none of the four (4) operators had received the required training. Each training failure is a violation of 40 CFR 68.54(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In an email to the inspector dated March 6, 2019, the Respondent provided documentation that all four (4) operators received the required training on December 14, 2018.	
VII.	Inspection(s) November 27, 2018 and November 29, 2018	The Respondent failed to maintain records of annual maintenance activities on process equipment at AI 28158 and AI 28157. The Respondent stated that the chlorine equipment for both plants is maintained by Industrial Research Corporation (IRC) and the hoists at both plants are maintained by Kone Cranes, however the Respondent could not provide documentation that the annual maintenance had been performed at either plant. Each failure to maintain records is a violation of 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).	
VIII.	Inspection(s) November 27, 2018 and November 29, 2018	The Respondent failed to conduct a compliance audit at least every three (3) years to validate that the procedures and practices are adequate and are being followed for AI 28158 and AI 28157. Specifically, the Respondent did not conduct a compliance audit in 2011 and 2016 for either plant. The Respondent had been using an eight (8) question checklist in the past to conduct the compliance audits; however, the checklist was inadequate as it did not cover all of the CAPP Program 2 sections. Each failure to conduct a compliance 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). In an email to the inspector dated January 3, 2019, the Respondent submitted a compliance audit for each plant dated December 14, 2018, using the CAPP Program 2 audit checklist.	




IX.	Inspection(s) November 29, 2018	The Respondent failed to update its offsite consequence analyses every five (5) years as required for AI 28157. Specifically, the offsite consequence analyses had not been updated since 2005. This is a violation of 40 CFR 68.36, which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). The inspector noted that the Respondent now uses RMP*Comp™ for endpoint modeling and MAPLOT® for defining offsite impacts.
ORDER		
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:		
I.	To take, immediately upon receipt of this COMPLIANCE ORDER , any and all steps necessary to meet and maintain compliance with the Air Quality Regulations. This shall include, but not be limited to, correcting <u>all</u> of the violations described in the "Findings of Fact" portion.	
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , a procedure for equipment inspections as described in Findings of Fact Paragraph V for AI 28158 and AI 28157.	
III.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , documentation that demonstrates annual preventive maintenance is being performed on chlorine equipment and the hoists for AI 28158 and AI 28157 as described in Findings of Fact Paragraph VII, for calendar years 2017 and 2018.	
IV.	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 the Department at the address specified in this document.	
RIGHT TO APPEAL		
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 address specified in this document.	
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 Christopher Clement at (225) 219-3748 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 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 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.	
IV.	The Department assesses civil penalties based on LAC 33:1.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.	

CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Christopher Clement	Hearing Requests: 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-19-00432 Agency Interest Nos. 28158 and 28157
Permit Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Air Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY
<ul style="list-style-type: none"> To appeal the COMPLIANCE ORDER portion, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this COMPLIANCE ORDER. To request closure of this CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL REQUEST TO CLOSE" form and returning it to the address specified. To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Department assesses civil penalties based on LAC 33:1.Subpart 1.Chapter 7. The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer. DO NOT submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Christopher Clement at (225) 219-3748 or Christopher.Clement@la.gov.


Lourdes Kufraide
Assistant Secretary
Office of Environmental Compliance

Date: 11-4-19

c: City of Winnfield
c/o Eddie Johnson, Supervisor
1003 McLeod St
Winnfield, LA 71483

Attachment(s)
- Request to Close

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.	AE-CN-19-00432	Contact Name	Christopher Clement
Agency Interest (AI) No.	28158 and 28157	Contact Phone No.	(225) 219-3748
Alternate ID No.	N/A		
Respondent:	City of Winnfield	Facility Name:	City of Winnfield Wastewater Treatment Plant and City of Winnfield Water Treatment Plant
	c/o Honorable George Moss, Mayor	Physical Location:	1003 McLeod Drive between 409 and 412 South Bevil Street
	120 E. Main Street	City, State, Zip:	Winnfield, LA 71483
	Winnfield, LA 71483	Parish:	Winn

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IV 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 II and III 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(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:		

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 NOTICE OF POTENTIAL PENALTY (AE-CN-19-00432), 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-CN-19-00432), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional) = \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-CN-19-00432) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Section
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Christopher Clement
