

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LEMARK, INC.

AI # 173126

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

* **Settlement Tracking No.**
* **SA-WE-25-0005**
*
* **Enforcement Tracking No.**
* **WE-PP-22-00784**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between LeMark, Inc. ("Respondent"), Aerie, LLC ("Responsible Party") 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 owned and/or operated a sewage treatment plant located in Prairieville, Ascension Parish, Louisiana ("the Facility").

II

On February 22, 2023, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. WE-PP-22-00784 (Exhibit 1).

III

Responsible Party is a Louisiana limited liability company that agreed to be solidarily liable with the Respondent for all violations of the Respondent listed in the above Notice of Potential Penalty. Responsible Party has also agreed to be solidarily responsible with Respondent to pay the

settlement amount in Paragraph V.

IV

Respondent and Responsible Party deny either committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent and Responsible Party, 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 SIX THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$6,400.00), of which Eight Hundred Fourteen and 32/100 Dollars (\$814.32) 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 and Responsible Party on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the 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 and

Responsible Party hereby waive 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.

XI

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 and Responsible Party have caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent and Responsible Party have 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 and Responsible Party shall provide tax identifications 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.

LEMARK, 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)

AERIE, LLC

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

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312							
Enforcement Tracking No.		WE-PP-22-00784		Certified Mail No.		7021 1970 0000 3978 8299	
Agency Interest (AI) No.		173126		Contact Name		Rachel Rogers	
Alternate ID No.		LAG560290		Contact Phone No.		(225) 219-3770	
Respondent:		LEMARK, INC.		Facility Name:		Ascension Market Place	
		c/o Lee Pickard		Physical Location:		13498 Highway 73	
		Agent for Service of Process					
		17626 Lake Azalea Drive		City, State, Zip:		Prairieville, LA	
		Baton Rouge, LA 70817		Parish:		Ascension	
This 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 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 owned and/or operated a sewage treatment plant, serving Ascension Market Place, located at 13498 LA Highway 73 in Prairieville, Ascension Parish, Louisiana. The Respondent was granted authorization under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG560290 effective on February 6, 2015, with an expiration date of November 4, 2019. LPDES General Permit LAG560290 was administratively continued until it was reissued on April 1, 2020. LPDES General Permit LAG560290 will expire on March 31, 2025. The Department received notification, dated November 3, 2022, of an ownership change to transfer LPDES General Permit LAG560290 from LeMark Aerie Properties to National Water Infrastructure, LLC, which occurred on November 1, 2022. Under the terms and conditions of LPDES General Permit LAG560290, the Respondent is permitted to discharge treated sanitary wastewater into Johnson Bayou, thence into Grand Goudine Bayou, thence into New River, all waters of the state. Effective January 1, 2013, the Respondent was automatically covered under the Louisiana Sewage Sludge and Biosolids Use or Disposal General Permit LAJ660000.					
		Date of Violation		Description of Violation			
II.		Inspection(s) 02/03/2022		The Respondent failed to properly operate and maintain its sewage treatment plant. Specifically, sludge and solids were observed throughout the system, the area surrounding the sewage treatment plant was overgrown with vegetation, and the final outfall could not be found. (LAG560290 (Sections A.2 & B.3.a), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E)			
III.		Inspection(s) & File Review 02/03/2022 01/06/2023		The Respondent failed to comply with LPDES permit LAG560290. Specifically, the Respondent failed to submit monthly Discharge Monitoring Reports (DMRs) from January 2018 through September 2022. (LAG560290 (prior to April 1, 2020, Part II, Section N.7 and Part III, Sections A.2 & D.4; beginning April 1, 2020, Part II, Section J.7 and Part III, Sections A.2 & D.4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.i)			
IV.		File Review 01/06/2023		The Respondent failed to submit the annual Sewage Sludge & Biosolids Use or Disposal Reporting Form for Sewage Sludge Pumped Out or Removed from a Sanitary Wastewater Treatment Works and Sold, Given Away, and/or Hauled Off-site for a Fee or Other Consideration (Form 7264) from 2018, 2019, 2020, and 2021 due by January 28th of each following year. (LAJ660000 (Part II, Section C.3), La. R.S. 30:2076 (A)(3), and LAC 33:IX.7313.A.2)			
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 Rachel Rogers at (225) 219-3770 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.		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.					
V.		The Department assesses civil penalties based on LAC 33:IX.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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY . 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.					

EXHIBIT

1

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VI.	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.
CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Rachel Rogers	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY	
<p>To expedite closure of the NOTICE OF POTENTIAL PENALTY, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.</p> <ul style="list-style-type: none"> • The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. • The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. • The settlement offer amount may be entered on the attached "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. • Before requesting closure of this NOTICE OF POTENTIAL PENALTY, please contact the Financial Services Division at 225-219-3865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. 	

If you have questions or need more information, you may contact Rachel Rogers at (225) 219-3770 or Rachel.Rogers@la.gov.


 Celena V. Cage
 Assistant Secretary
 Office of Environmental Compliance

Date: 03/22/2023


cc:

AERIE, LLC
 c/o Jeffrey Torrance
 Agent for Service of Process
 8484 Athens Avenue
 Baton Rouge, LA 70814

Lisa Gilbert
 8484 Athens Avenue
 Baton Rouge, LA 70814

Attachment(s)

- Request to Settle

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312					
NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL)					
Enforcement Tracking No.	WE-PP-22-00784	Contact Name	Rachel Rogers		
Agency Interest (AI) No.	173126	Contact Phone No.	(225) 219-3770		
Alternate ID No.	LAG560290				
Respondent:	LEMARK, INC.	Facility Name:	Ascension Market Place		
	c/o Lee Pickard	Physical Location:	13498 Highway 73		
	Agent for Service of Process				
	17626 Lake Azalea Drive	City, State, Zip:	Prairieville, LA		
	Baton Rouge, LA 70817	Parish:	Ascension		
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 (WE-PP-22-00784), 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 (WE-PP-22-00784), 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 (WE-PP-22-00784) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.				
CERTIFICATION STATEMENT					
<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	
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:					
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Rachel Rogers					

If you have questions or need more information, you may contact Rachel Rogers at (225) 219-3770 or Rachel.Rogers@la.gov.