

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**LOUISIANA SUGAR CANE
COOPERATIVE, INC.**

AI # 2827

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

* **Settlement Tracking No.**
* **SA-MM-25-0011**
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* **Enforcement Tracking No.**
* **MM-CN-21-00322**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Louisiana Sugar Cane Cooperative, 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 raw sugar cane factory located in St. Martinville, St. Martin Parish, Louisiana ("the Facility").

II

On July 15, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-21-00322 (Exhibit 1).

The following violation, although not cited in the foregoing enforcement action, is included within the scope of this settlement:

The Respondent caused and/or allowed the discharge of oil to waters of the state. Specifically, during an inspection to investigate a citizen's complaint conducted by the Department

on or about August 5, 2021, an oil sheen on Bayou Teche (Subsegment 060301) was observed originating from the facility. The oil sheen was traced to oil leaking from a pump that was being serviced near the edge of Bayou Teche. (La R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.A)

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 SEVEN THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$7,600.00), of which One Thousand Six Hundred Seventy-Nine and 46/100 Dollars (\$1,679.46) 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 St. Martin 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.

**LOUISIANA SUGAR CANE
COOPERATIVE, 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**
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

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

JUL 15 2021

CERTIFIED MAIL (7017 0530 0000 5978 9593)
RETURN RECEIPT REQUESTED



LOUISIANA SUGAR CANE COOPERATIVE, INC.
c/o Michael Comb
Agent for Service of Process
6092 Resweber Hwy.
St. Martinville, LA 70582

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-21-00322
AGENCY INTEREST NO. 2827**

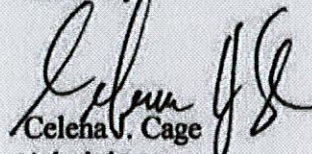
Dear Sir:

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 **LOUISIANA SUGAR CANE COOPERATIVE, INC. (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 Melissa Sherman at (225) 219-3770 or Melissa.Sherman@la.gov.

Sincerely,


Celesta V. Cage
Administrator
Enforcement Division

CJC/MES/af
Alt ID No. LA0004375
Attachment

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

IN THE MATTER OF

**LOUISIANA SUGAR CANE COOPERATIVE,
INC.
ST. MARTIN PARISH
ALT ID NO. LA0004375**

ENFORCEMENT TRACKING NO.

MM-CN-21-00322

AGENCY INTEREST NO.

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

2827

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **LOUISIANA SUGAR CANE COOPERATIVE, 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 Louisiana Sugar Cane Cooperative, Inc., a raw sugar cane factory located at 6092 Reweber Highway in St. Martinville, St. Martin Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0004375 on September 16, 2016, with an effective date of November 1, 2016 and expiration date of October 31, 2021. The Respondent submitted a renewal application on or about March 23, 2020. LPDES Permit LA0004375 is administratively continued until reissuance. Under the terms and conditions of LPDES Permit LA0004375, the Respondent is permitted to discharge on a seasonal basis, combined process wastewater (comprised of wastewaters from cane washing, clarification of juice, fly ash abatement and the cleaning

of pans and evaporators), stormwater runoff and sanitary wastewater into Bayou Martin, waters of the state.

II.

On or about January 27, 2021, the Department conducted an inspection of 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 comply with LPDES Permit LA0004375. Specifically, composite samples were collected between the hours of 6:00 am to 4:00 pm for Outfall 001 for each sampling event from April 2016 through December 2020. LPDES permit LA0004375 requires composite samples to be collected over a 24 hour period as defined in LPDES permit LA0004375, Standard Conditions, Section F.3.d. (LA0004375 (Part I, Effluent Limitations and Monitoring Requirements and Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A)
- B. The Respondent caused and/or allowed the unauthorized discharge of wastewater into waters of the state from a location not authorized by LPDES Permit LA0004375 and failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, according to the facility representative, a temporary pump is used in conjunction with two (2) permanent pumps to help alleviate additional flow during heavy rain events. The temporary pump was not operational which resulted in an overflow and unauthorized discharge to waters of the state. Process water from the gravity flow ditch was overflowing into the adjacent sugar cane field and over/around the gate that stops the process water from continuing downstream into an unnamed ditch thence into Bayou Martin, waters of the state. The unauthorized discharge of wastewater to waters of the state is in violation of La. R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.D. The failure to properly operate and maintain the systems of treatment and control is in violation of (LA0004375 (Standard Conditions, Sections A.2 & B.3.a) R.S. 30:2076(A)(3), and LAC 33:IX.2701.B).
- C. The Respondent failed to maintain waters of the state in an aesthetically attractive condition and to meet water quality standards. Specifically, black residue was observed downstream from the point of the unauthorized discharge for approximately one and

one fourth (1 ¼) mile. In addition, bloodworms were observed in the ditch near Outfall 001. (La. R.S. 30:2076(A)(3) and LAC 33:IX.1113.B.1)

- D. The Respondent caused and/or allowed the unauthorized disposal and/or processing of solid waste, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, at the time of the January 27, 2021 inspection, a black residue was observed downstream from the point of the unauthorized discharge for approximately one and one fourth (1 ¼) mile. A representative of the Respondent stated the residue was a result of stormwater from the ditch that had turned black due to the leftover ash from the farmers burning the field. However, upon further investigation, it became evident that the black water in the ditch was actually process water flowing from the facility via an aboveground gravity flow ditch. The process water contaminated the soil with a black residue (solid waste) that the Respondent failed to clean up.

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 Water Quality and Solid Waste Regulations.

II.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, any unauthorized discharges from the Respondent's facility to waters of the state.

III.

In the event the Respondent believes that complete correction of the above-cited deficiencies is not immediately possible, the Respondent shall submit, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a comprehensive plan for the expeditious elimination and prevention of such noncomplying discharges. Such plan shall provide for specific corrective actions taken and shall include a critical path schedule for the achievement of compliance within the shortest time possible.

IV.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind at the Site or any other site that is not permitted to receive

such waste.

V.

To remove, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, all solid waste and visibly contaminated soils as described in Findings of Fact paragraph II.D and dispose of these wastes at a permitted or authorized solid waste disposal facility. The Respondent shall submit documentation of proper disposal to the Enforcement Division within fifteen (15) days of disposal.

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 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: Melissa Sherman
Re: Enforcement Tracking No. MM-CN-21-00322
Agency Interest No. 2827

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. MM-CN-21-00322
Agency Interest No. 2827

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 Melissa Sherman 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.


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 15th day of July, 2021.



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: Melissa Sherman

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.	MM-CN-21-00322	Contact Name	Melissa Sherman		
Agency Interest (AI) No.	2827	Contact Phone No.	(225) 219-3770		
Alternate ID No.	LA0004375				
Respondent:	Louisiana Sugar Cane Cooperative, Inc.	Facility Name:	St. Martin Branch		
	c/o Michael Comb	Physical Location:	6092 Resweber Hwy		
	Agent for Service of Process				
	6092 Resweber Hwy	City, State, Zip:	St. Martinville, LA 70582		
	St. Martinville, LA 70582	Parish:	St. Martin		
STATEMENT OF COMPLIANCE					
STATEMENT OF COMPLIANCE				Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph VI 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 III of the "Order" portion of the COMPLIANCE ORDER.					
All necessary documents were submitted to the Department within 60 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph V 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)					
<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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-CN-21-00322), 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 (MM-CN-21-00322), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-CN-21-00322) 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: Melissa Sherman</p>		