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 LA Dept of Environmental Quality  
 LEGAL DIVISION

**STATE OF LOUISIANA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**  
  
**BANNER FORD, L.L.C.**

**AI # 22152**

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

- \* Settlement Tracking No.
- \* SA-WE-08-0009
- \*
- \* Enforcement Tracking No.
- \* WE-C-03-0157
- \* WE-PP-05-0196
- \*
- \*
- \*

**SETTLEMENT**

The following Settlement is hereby agreed to between Banner Ford, L.L.C. ("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 who owns and/or operates an automobile dealership facility at 1943 North Causeway Boulevard in Mandeville, St. Tammany Parish, Louisiana. ("the Facility").

**II**

On April 19, 2004, the Department issued to Respondent a Compliance Order, Enforcement Action No. WE-C-03-0157, which was based upon the following findings of fact:

The Respondent owns and/or operates Banner Ford, L.L.C. located at 1943 North Causeway Boulevard in Mandeville, St. Tammany Parish, Louisiana. Lamarque North Shore was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) permit LAG470016 on October 13, 1999, with an expiration date of August 30, 2004. LAG470016 was modified on March 14, 2000, to remove coverage of discharges of uncontaminated stormwater and washwater without

soaps and/or detergents. On May 1, 2002, LAG470016 was modified to remove Outfall 006 and to add Outfall 007 to the permit. The permit was transferred from Lamarque North Shore Ford to Banner Ford, L.L.C. (the Respondent) on September 18, 2002. LAG470016 was modified on August 6, 2003, to authorize the commingled discharge of outfalls 003 and 005 at the Respondent's request. On November 20, 2003, the LPDES permit LAG470016 was modified to reflect the addition of Outfall 008, a sanitary wastewater discharge point. The Respondent is authorized to discharge sanitary wastewater and carwash wastewater to a highway drainage ditch, thence to Bayou Tete L'Ours, both waters of the state.

A file review conducted by the Department on or about December 24, 2003, revealed that the Respondent was operating without an LPDES permit from May 3, 2002, the date the facility was purchased through September 18, 2002, the date of permit transfer. The unauthorized discharge of wastewater from May 3, 2002, through September 18, 2002, constitutes a violation of La. R.S. 30:2075, La. R.S. 30:2076 (A)(1)(a), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

Further file review conducted by the Department on or about December 24, 2003, revealed that the Respondent submitted DMRs indicating a combined discharge of Outfalls 003 and 005 for the monitoring period of January 1, 2003, through March 31, 2003, and April 1, 2003, through June 30, 2003. The Department did not approve the commingled discharge of these Outfalls until August 6, 2003. The unauthorized discharge of commingled wastewater for Outfalls 003 and 005 from January 1, 2003, through August 6, 2003, is in violation of LAG470016 (Part III, Section A.2), La. R.S. 30:2075, La. R.S. 30:2076 (A)(1)(a), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

An inspection conducted by the Department on or about December 17, 2002, revealed that the Respondent failed to have a Pollution Prevention Plan (PPP) available at the time of the inspection. The failure to have a PPP available at the time of the inspection constitutes a violation of LAG470016 (Part II, Section E and Part III, Section A.2), LAC 33:IX.501.A, LAC 33:IX.2355.A.

An inspection conducted by the Department on or about December 17, 2002, and a subsequent file review conducted by the Department on or about December 24, 2003, revealed the following excursions of effluent limitations, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Monitoring Period	Outfall #	Parameter	Limits	Value
07/01/02-12/31/02	003	BOD <sub>5</sub> (wkly avg)	45 mg/L	86 mg/L
		TSS (wkly avg)	45 mg/L	210 mg/L
		Fecal Coliform (wkly avg)	400 col/100ml	38,400 col/100 ml
10/01/02-12/31/02	005	COD (wkly avg)	300 mg/L	1,480 mg/L
		TSS (wkly avg)	45 mg/L	50 mg/L
		Oil & Grease (wkly avg)	15 mg/L	60 mg/L
01/01/03-06/30/03	007	TSS (wkly avg)	45 mg/L	246 mg/L
01/01/03-03/31/03	003	Fecal Coliform (wkly avg)	400 col/100 ml	>60,000 col/100 ml
04/01/03-06/30/03	003	Oil & Grease (wkly avg)	15 mg/L	21.4 mg/L
		BOD <sub>5</sub> (wkly avg)	45 mg/L	51 mg/L

Each excursion of the effluent limitations constitutes a violation of LPDES permit LAG470016 (Part I, Section B, Schedules A & E, and Part III, Section A.1), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.A.

A file review conducted by the Department on or about December 24, 2003, revealed that the Department did not receive non-compliance reports (NCRs) for the monitoring periods of July 2002 through December 2002. Each failure to submit a NCR constitutes a violation of LPDES permit

LAG470016 (Part III, Sections A.2 and D.7), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, LAC 33:IX.2355.A, and LAC 33:IX.2355.L.7.

A file review conducted by the Department on or about December 24, 2003, revealed that the Respondent failed to submit Discharge Monitoring Reports (DMRs) for Outfall 003 & 005 for the monitoring period of July 2003 through September 2003. Each failure to submit DMRs is a violation of LPDES permit LAG470016 (Part I, Section C, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2355.L.4.a.

On September 5, 2006, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Action No. WE-PP-05-0196, which was based upon the following findings of fact:

On or about January 19, 2005, an inspection of Banner Ford, L.L.C. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations. The facility is located at 1943 North Causeway Boulevard in Mandeville, St. Tammany Parish, Louisiana.

Lamarque North Shore Ford was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) permit LAG470016 on October 13, 1999, with an expiration date of August 30, 2004. LAG470016 was modified on March 14, 2000, and May 1, 2002, to remove discharges of uncontaminated stormwater and washwater without soaps and/or detergents and to remove Outfall 006 and to add Outfall 007, respectively. LPDES permit LAG470016 was transferred from Lamarque North Shore Ford to Banner Ford, L.L.C. (the Respondent) on September 18, 2002. On or about August 6, 2003, LPDES permit LAG470016 was modified to authorize the commingled discharge of outfalls 003 and 005 and to reflect the addition of Outfall 008, respectively. LPDES permit LAG470016 was reissued to the Respondent on September 15, 2004. On May 26, 2005, the permit was modified to include the addition of Wash Rack waste water

(outfall 001) and on October 14, 2005, to remove all outfalls with the exception of outfall 001. According to the September 26, 2005, permit modification request from the Respondent, all other outfalls were connected to the City of Mandeville Sanitary Sewer System on August 26, 2005. A correspondence submitted to the Department on or about December 5, 2005, indicated that Outfall 001 had also been connected to the City of Mandeville Sanitary Sewer System and on January 23, 2006, the Department terminated coverage under LPDES permit LAG470016 per the Respondent's request. Under the terms and conditions of LAG470016 the Respondent was authorized to discharge sanitary wastewater and carwash wastewater to a highway drainage ditch, thence to Bayou Tete L'Ours, both waters of the state.

The following violations were noted during the course of the inspection:

- A. The Respondent was issued Compliance Order WE-C-03-0157 on or about April 19, 2004, for the following areas of concern noted during a December 17, 2002, inspection and a file review conducted by the Department on or about December 23, 2003: unauthorized discharges, failure to have a Pollution Prevention Plan (PPP) available at the time of inspection, effluent violations, failure to submit noncompliance reports, and failure to submit DMRs. The Order required the Respondent to immediately take any and all steps necessary to meet and maintain compliance with LPDES permit LAG470016, to submit a comprehensive Pollution Prevention Plan, to submit properly completed DMRs, and to submit a written report to include the circumstances of the cited violations and the actions taken to achieve compliance. On or about June 14, 2004, the Respondent submitted a written report addressing the areas of concern in the Compliance Order WE-C-03-0157. Compliance Order WE-C-03-0157 is a final action of the Department and not subject to further review.
  
- B. An inspection conducted by the Department on or about January 19, 2005, and a subsequent file review conducted by the Department on or about August 8, 2006, revealed the Respondent exceeded effluent limitation. These effluent excursions, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
July 1-Sep 30, 2003	003	COD (Daily Max)	300 mg/L	340 mg/L
		Fecal Coliform (Daily Max)	400 col/100 ml	>60,000 col/100 ml
Oct 1-Dec 31, 2003	003	TSS (Daily Max)	45 mg/L	48 mg/L
		COD (Daily Max)	300 mg/L	360 mg/L

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
Jan 1-April 31, 2004	003	TSS (Daily Max)	45 mg/L	110 mg/L
		BOD <sub>5</sub> (Daily Max)	45 mg/L	112 mg/L
Jan 1- June 30, 2004	007	TSS (Daily Max)	45 mg/L	2020 mg/L
		BOD <sub>5</sub> (Daily Max)	45 mg/L	181 mg/L
		Fecal Coliform (Daily Max)	400 col/100 ml	>60,000 col/100 ml
Jan 1- June 30, 2004	008	Fecal Coliform (Daily Max)	400 col/100 ml	9,000 col/100 ml
April 1-June 30, 2004	003	Fecal Coliform (Daily Max)	400 col/100 ml	1454 col/100 ml
July 1-Dec 31, 2004	005	TSS (Daily Max)	45 mg/L	3090 mg/L
July 1-Dec 31, 2004	005A	TSS (Daily Max)	45 mg/L	2460 mg/L
Oct 1-Dec 31, 2004	006	TSS (Daily Max)	45 mg/L	50 mg/L
		BOD <sub>5</sub> (Daily Max)	45 mg/L	48 mg/L
		Fecal Coliform (Daily Max)	400 col/100 ml	>60,000 col/100 ml
Jan 1-March 31, 2005	006	TSS (Daily Max)	45 mg/L	115 mg/L
		BOD <sub>5</sub> (Daily Max)	45 mg/L	80 mg/L
Jan 1-June 30, 2005	005A	TSS (Daily Max)	45 mg/L	92 mg/L
		BOD <sub>5</sub> (Daily Max)	45 mg/L	78 mg/L
Jan 1-June 30, 2005	005B	TSS (Daily Max)	45 mg/L	68 mg/L
April 1-June 30, 2005	006	COD (Daily Max)	300 mg/L	340 mg/L
		Fecal Coliform (Daily Max)	400 col/100 ml	>60,000 col/100 ml

Each effluent excursion constitutes a violation of LPDES permit LAG470016 (Part I, Section B and Part III Section A.2), La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.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 NINE THOUSAND AND NO/100 DOLLARS (\$9,000.00), of which Five Hundred Twenty-seven and 04/100 Dollars (\$527.04) represents DEQ's enforcement costs, in settlement of the claims set

forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ 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 Compliance Order and this Settlement 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 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 agreement in any action by the Department to enforce this agreement.

VII

This settlement 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, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. 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 (Exhibit A).

## X

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

## XI

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.

BANNER FORD, L.L.C.

BY: [Signature]  
(Signature)

Larry W. Bulka  
(Print)

TITLE: Director of Operations

THUS DONE AND SIGNED in duplicate original before me this 19<sup>th</sup> day of June, 20 08, at Mandeville, LA.

[Signature]  
NOTARY PUBLIC (ID # 48996)

MARIA C. CORDOVA  
Notary Public  
My Commission Is For Life  
Notary ID # 48996

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Harold Leggett, Ph.D., Secretary

BY: [Signature]  
Peggy M. Hatch, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 10<sup>th</sup> day of November, 20 08, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 40539)  
Jed R. Bruford, II  
(Print)

Approved: [Signature]  
Peggy M. Hatch, Assistant Secretary