

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

GULF ISLAND FABRICATION, INC.

AI # 9789

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

\* Settlement Tracking No.  
\* SA-MM-08-0006  
\*  
\* Enforcement Tracking No.  
\* MM-CN-03-0084, MM-CN-03-0084A,  
\* MM-CN-03-0084B  
\*  
\* Docket No. 2004-4839-EQ  
\* (for MM-CN-03-0084 only)

SETTLEMENT

The following Settlement is hereby agreed to between Gulf Island Fabrication, Inc. (Respondent) and the Department of Environmental Quality ( Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (Act).

I

Respondent is a corporation that owns and/or operates an offshore oil and gas platform fabrication facility consisting of the main yard, the west yard, and the south port yard in Houma, Terrebonne Parish, Louisiana (Facility).

The three (3) yards are located as follow:

1. the main yard is located at or near 583 Thompson Road bordered by the Houma Navigation Canal;
2. the west yard is located off of Louisiana Highway 315 bordered on the east by the Houma Navigation Canal; and
3. the south port yard is located at or near 730 Thompson Road across from the main yard in Houma, Terrebonne Parish, Louisiana.

II

A. This agreement encompasses the following enforcement actions.

1. Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-03-0084, issued to Respondent on March 28, 2004 attached herewith and made a part of this Settlement Agreement as Exhibit A.
2. Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-03-0084A, issued to Respondent on June 14, 2005 attached herewith and made a part of this Settlement Agreement as Exhibit B.
3. Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-03-0084B, issued to Respondent on February 24, 2006 attached herewith and made a part of this Settlement Agreement as Exhibit C.

B. The following violations, although not cited in any enforcement action, are included within the scope of the settlement herein.

1. A file review conducted by the Department on or about December 17, 2007, revealed the following permit exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

<b>Date</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
October – December 2005	501	Fecal Coliform	14/43 col/100 ml	8,000 col/100 ml
January - March 2006	501	BOD <sub>5</sub> (monthly avg.)	30 mg/L	42 mg/L
January - March 2006	501	TSS (monthly avg.)	30 mg/L	84 mg/L
January - March 2006	501	TSS (weekly avg.)	45 mg/L	84 mg/L
January - June 2006	202	TSS (monthly avg.)	30 mg/L	31 mg/L
January - June 2006	301	TSS (monthly avg.)	30 mg/L	45 mg/L
January - June 2006	303	TSS (monthly avg.)	30 mg/L	88 mg/L
January - June 2006	303	TSS (weekly avg.)	45 mg/L	88 mg/L
January - June 2006	008	BOD <sub>5</sub> (monthly avg.)	30 mg/L	65 mg/L

Date	Outfall	Parameter	Permit Limit	Sample Value
January - June 2006	008	BOD <sub>5</sub> (weekly avg.)	45 mg/L	65 mg/L
January - June 2006	008	TSS (monthly avg.)	30 mg/L	122 mg/L
January - June 2006	008	TSS (weekly avg.)	45 mg/L	122 mg/L
January - June 2006	008	Fecal Coliform (weekly avg.)	43 col/ 100 ml	3,000 col/ 100 ml
July - December 2006	301	TSS (monthly avg.)	30 mg/L	31 mg/L
July - December 2006	001	TSS (monthly avg.)	30 mg/L	48 mg/L
July - December 2006	001	TSS (weekly avg.)	45 mg/L	48 mg/L
April - June 2007	103	Fecal Coliform (weekly avg.)	400 col/ 100 ml	600 col/ 100 ml
April - June 2007	401	Fecal Coliform (weekly avg.)	400 col/ 100 ml	600 col/ 100 ml
January - June 2007	102	TSS (weekly avg.)	45 mg/L	53.5 mg/L

Each effluent violation constitutes a violation of LPDES permit LA0091961 (Part I, 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.

- On June 27, 2008, a No Further Action Memo was issued by the Department documenting that no further action would be taken for certain effluent violations cited in Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement Tracking Nos. MM-CN-03-0084, MM-CN-03-0084A, and MM-CN-03-0084B. These effluent violations are listed in the table below:

Date	Outfall	Parameter	Permit Limit	Sample Value
January - June 2001	101	BOD <sub>5</sub> (weekly avg.)	45 mg/L	252 mg/L
January - June 2001	101	TSS (weekly avg.)	45 mg/L	49 mg/L
July - Sept. 2001	101	Fecal Coliform (weekly avg.)	43 col/100 ml	160 col/100 ml *
January - June 2001	103	BOD <sub>5</sub> (weekly avg.)	45 mg/L	96 mg/L
January - June 2001	103	TSS (weekly avg.)	45 mg/L	77 mg/L
July - December 2002	103	TSS (weekly avg.)	45 mg/L	86 mg/L
January - June 2001	106	BOD <sub>5</sub> (Daily Max.)	45 mg/L	62 mg/L
July - December 2002	106	Fecal Coliform (Daily Max.)	400 col/100 ml	6,300 col/ml
July - December 2002	201	Fecal Coliform (weekly avg.)	43 col/100 ml	260 col/100 ml *
July - December 2002	201	Fecal Coliform (weekly avg.)	43 col/100 ml	260 col/100 ml *
January - June 2003	201	Fecal Coliform (weekly avg.)	43 col/100 ml	90 col/100 ml *
July - December 2002	202	TSS (weekly avg.)	45 mg/L	52 mg/L

Date	Outfall	Parameter	Permit Limit	Sample Value
July - December 2002	202	Fecal Coliform (weekly avg.)	43 col/100 ml	60 col/100 ml *
January - June 2001	301	BOD <sub>5</sub> (weekly avg.)	45 mg/L	204 mg/L
July - December 2003	301	Fecal Coliform (weekly avg.)	43 col/100 ml	160 col/100 ml *
January - June 2004	301	Fecal Coliform (weekly avg.)	43 col/100 ml	80 col/100 ml *
July - December 2004	301	Fecal Coliform (weekly avg.)	43 col/100 ml	90 col/100 ml *
July - December 2005	301	Fecal Coliform (weekly avg.)	43 col/100 ml	46,000 col/100 ml
January - June 2001	302	BOD <sub>5</sub> (weekly avg.)	45 mg/L	102 mg/L
January - June 2001	302	TSS (weekly avg.)	45 mg/L	69 mg/L
July - December 2005	303	TSS (monthly avg.)	30 mg/L	71 mg/L
July - December 2005	303	TSS (weekly avg.)	45 mg/L	71 g/L
January - June 2001	401	BOD <sub>5</sub> (weekly avg.)	45 mg/L	66 mg/L
January - June 2001	401	TSS (weekly avg.)	45 mg/L	67 mg/L
October 2001	401	Fecal Coliform (weekly avg.)	43 col/100 ml	110 col/100 ml *
October 2001	401	Fecal Coliform (weekly avg.)	43 col/100 ml	330 col/100 ml *
July - December 2002	401	TSS (weekly avg.)	45 mg/L	48 mg/L
July - December 2004	401	Fecal Coliform (weekly avg.)	43 col/100 ml	180 col/100 ml *
July - September 2001	403	Fecal Coliform (weekly avg.)	43 col/100 ml	12,000 col/100 ml
October 2001	403	Fecal Coliform (weekly avg.)	43 col/100 ml	330 col/100 ml *
January - June 2001	501	TSS (monthly avg.)	30 mg/L	43 mg/L
January - June 2004	501	Fecal Coliform (monthly avg.)	14 col/100 ml	40 col/100 ml *
Oct. - December 2005	501	Fecal Coliform (monthly avg.)	14 col/100 ml	8,000 col/100 ml
Oct. - December 2005	501	Fecal Coliform (weekly avg.)	43 col/100 ml	8,000 col/100 ml
January - June 2001	503	Fecal Coliform (weekly avg.)	43 col/100 ml	12,000 col/100 ml
July - December 2002	503	TSS (weekly avg.)	45 mg/L	48 mg/L
July - December 2005	703	Fecal Coliform (weekly avg.)	43 col/100 ml	TNTC**
October 2001	803	Fecal Coliform (weekly avg.)	43 col/100 ml	120 col/100 ml *
July - December 2002	803	TSS (weekly avg.)	45 mg/L	86 mg/L
July - December 2005	803	Fecal Coliform (weekly avg.)	43 col/100 ml	TNTC**
July - December 2005	004	Fecal Coliform (Daily Max.)	400 col/100 ml	7,800 col/100 ml
July - December 2002	005	Fecal Coliform (Daily Max.)	400 col/100 ml	3,200 col/100 ml
July - September 2001	008	Fecal Coliform (Daily Max.)	43 col/100 ml	100 col/100 ml *
July - December 2002	008	Fecal Coliform (Daily Max.)	43 col/100 ml	2,000 col/100 ml
January - June 2003	008	Fecal Coliform (Daily Max.)	43 col/100 ml	150 col/100 ml *
July - December 2005	008	Fecal Coliform (Daily Max.)	43 col/100 ml	2,800 col/100 ml

\*Fecal coliform effluent exceedances of LPDES permit LA0091961 which will not be included as a penalty assessment due to improper determination and designation of the subsegment of the Houma Navigation Canal. The remaining effluent exceedances of LPDES permit LA0091961 listed in this table will not be included as a penalty assessment as a result of the damages caused by Tropical Storm Allison, and Hurricanes Isidore, Lili, Katrina and Rita.

\*\*Too Numerous to Count

### III

In response to Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-03-0084, Respondent made a timely request for a hearing.

### IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### V

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 FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00), of which Five Thousand Eight Hundred Thirty-one and 84/100 Dollars (\$5,831.84) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement.

### VI

Respondent, in addition to the penalty amount specified in Paragraph V above and as part of this Settlement, agrees to donate the amount of Twenty Thousand Dollars and No/100 Dollars (\$20,000.00) to the **Barataria-Terrebonne National Estuary Program (BTNEP)** for the reproduction and distribution of water quality and wetland restoration educational materials. These educational materials are the prime mechanisms used by BTNEP to educate citizens, teachers, agency personnel and people working for industry to support the stewardship of the cultural, economic and ecological resources of the 4.2 million acre Barataria and Terrebonne Basins. BTNEP strives to rebuild and protect the estuary for future generations through the implementation of a science-based, consensus-driven plan that utilizes partnerships focused on the estuary's cultural, economic and natural resources.

- A. The money will be used by BTNEP for the reproduction and distribution of the following educational products:

1. Videos (VHS and DVDs)

- a) **Haunted Waters, Fragile Lands** - An award winning documentary on the cultural, geological, and environmental history of the Barataria-Terrebonne National Estuary System. Four, fifteen-minute segments - The Many Peoples; Frontlands and Backlands; Trembling Prairies; Life from Water, Death from Sea. 56 minutes
- b) **Rescuing the Treasure** - A sequel to Haunted Waters, Fragile Lands, describing importance of estuaries and restoration techniques. 30 minutes
- c) **Vanishing Wetlands, Vanishing Future** - This zany video on the BTNEP seven priority problems was produced at Nicholls State University. It is in the style of Bill Nye the Science Guy, and is best suited for Junior High, though the vocabulary is applicable to High School, and young kids love the action. 60 minutes
- d) **America's Vanishing Treasure** - A hard-hitting look at land loss in Barataria-Terrebonne and coastal Louisiana. This message is: either we take drastic action now or prepare to move people out. Junior High-High School level. 26 minutes
- e) **Wings Over the Wetlands** - This video examines the importance of wetland habitats to the many birds that either calls this region home or who depend on it as they pass through during migration. 30 minutes.
- f) **Estuary LIVE!** - In 2004, students from around the country had the opportunity to ask scientists and other experts questions about Louisiana wetlands. Participants investigated the rich bounty of shrimp, redfish, crabs and oysters, offshore oil rigs, pelicans and other resident and migratory birds, and learned of Barataria-Terrebonne's importance to the nation.
- g) **Bayou Lafourche: The Longest Street in the World** - A fascinating documentary that captures the history, culture, lifestyle, environmental troubles and emerging ecological solutions of the 100-mile ribbon of bayou that weaves through the Barataria-Terrebonne Estuary. Through the lens of a camera and the voices of many passionate stakeholders, videographer Jim Fields tenderly examines the rich bayou, its historical significance, the culture, and the Water Quality problems that have been

created since this once mighty waterway has been altered and controlled by man.

- h) **Harvest to Restore** - A co-production of the Barataria-Terrebonne National Estuary Program, the Louisiana Public Broadcasting, and Cote Blanche Productions, Inc. looks at the new methods being used to save the state's rapidly disappearing coastline and wetlands. The 30-minute documentary premiered on Tuesday, September 23, 2009, at 9PM on LPB and WLAE-TV in New Orleans. Many scientists now believe that pipeline sediment delivery holds the promise of expeditiously recreating the natural system of barrier islands, marshes, and ridglands that provide the only practical long term hurricane protection both to America's energy hub and to the port and city of New Orleans. The documentary looks at how pipeline sediment delivery works, how it's being used in other countries around the world, and how it might be implemented in the Louisiana coastal zone.

## 2. CD ROMs

- a) **Knee-Deep in Louisiana Wetlands**- This lively CD has been developed by the Educational Technology Review Center in coordination with the National Wetlands Research Center and BTNEP. This CD focuses on the many different types of wetlands in Louisiana-Bogs, Forested Wetlands, Coastal Prairie, Fresh Marsh, Salt Marsh, and the Mississippi River. Each section has a description, plant and animal base, unusual facts, issues for students to investigate further, and lesson plans, activities and resources for teachers.
- b) **Exploring Coastal Louisiana with Boudreaux**-An interactive CD-ROM developed jointly by BTNEP, Coastal Wetland Planning, Protection Restoration Act (CWPPRA), and the National Wetlands Research Center to address coastal wetland issues in Louisiana. A component of the CD-ROM focuses on Barataria-Terrebonne and showcases its ecological, economic, and cultural importance. A wetland quiz and the bird and animal identification quizzes promote interaction and learning by interested people. Boudreaux's camp has a map room, kids' room, and many other surprises, which can be accessed by the "point and click method". Lesson plans are available.

## 3. Posters

- a) **Priority Problems Poster Series-17"x 25"**; One poster for each of the seven priority problems-Sediment Reduction, Hydrologic Modification, Eutrophication, Toxic Substances, Pathogen Contamination, Habitat Loss

and Modification and Changes in Living Resources. These color posters illustrate and describe these issues.

- b) **Thematic mapper/poster**-This 36" x 44" poster is a satellite image of the estuary watershed, accompanied by information on landscape, vegetation, habitat types, and water quality issues and about BTNEP.
- c) **Habitats of Barataria-Terrebonne: Their Importance to Migratory and Resident Birds**-This 42" x 36" poster includes photographs of various types of birds, a map of habitat types, flyway routes, and information about the importance of various habitat types in Barataria-Terrebonne and the significance of habitat changes.
- d) **Habitat Change Poster**- This poster depicts coastal Barataria-Terrebonne during three different time periods. Habitat types are delineated. Good visual aid to see changes such as land loss over time.

#### 4. Publications

- a) **Saving Our Good Earth: A Call to Action**-This publication is designed for the public and characterizes the estuary, its history, geology and environmental challenges.
- b) **Self-Guided Tours of the Barataria-Terrebonne Estuary, for Classroom and Citizen Groups**-This guide provides "teacher-friendly" information about twenty locations within the estuarine system, where field trips are available. Site information includes class size preferred, age appropriateness, time allowances, extra activities, photos and maps.
- c) **Portrait of an Estuary: Wetlands Functions and Values in the Barataria-Terrebonne National Estuary**-This booklet defines wetland types, commercial values of fisheries, furbearers and alligators, oil and gas, farming and ranching, and covers recreational values, wildlife habitat and water quality for the Barataria Terrebonne Estuary region.

#### 5. Coloring/Activity Books

- a) **Salt Marsh Habitat of the Barataria-Terrebonne Estuary** - Clawdette, the BTNEP blue crab mascot, guides this activity book. It features plants and animals of the salt marsh, and activities related to salt marsh ecology and the loss of wetlands. Extensions and State Framework correlations can be found on the BTNEP website at [www.btnep.org](http://www.btnep.org).

B. The Respondent shall convey Twenty Thousand and No/100 Dollars (\$20,000.00) to the Barataria-Terrebonne National Estuary Program within thirty (30) days from notice of the Department's final signature.

1. The check shall be made payable to the Barataria-Terrebonne National Estuary Program.

2. The check shall be mailed to:

Attn: Kerry M. St. Pe  
Barataria-Terrebonne National Estuary Program  
Nicholls State University Campus  
P. O. Box 2663  
Thibodaux, LA 70310

3. All questions regarding the implementation and financial aspects of the project will be directed to the program director, Kerry M. St. Pe.

C. Respondent shall submit a single final report to the Department within thirty (30) days after the donation confirming that the donation has been made as set forth, including the total amount donated to the BTNEP. If, for any reason, Respondent does not spend the amount of Twenty Thousand and No/100 Dollars (\$20,000.00), then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

## VII

The total amount of money expended by Respondent on cash payments to the Department and on beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

## VIII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty, the two (2) Amended Consolidated Compliance Orders and Notices of Potential Penalty, 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.

## IX

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.

## X

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 La. R. S. 30:2025(E) of the Act.

## XI

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Terrebonne 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 an original proof-of-publication affidavit and an original public notice 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 notices.

## XII

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 D).

## XIII

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

## XIV

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.

GULF ISLAND FABRICATION, INC.

BY:  *Kirk Meche*   
(Signature)

Kirk Meche   
(Print)

TITLE:  President & C.O.O.

THUS DONE AND SIGNED in duplicate original before me this  10  day of  Feb , 20  11 , at  Houma, LA .

*William S. Bordelon*   
NOTARY PUBLIC (ID #  9151 )

William S. Bordelon   
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch, Secretary

BY:  *Cheryl Sonnier Nolan*

Cheryl Sonnier Nolan, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this  13<sup>th</sup>  day of  June , 20  11 , at Baton Rouge, Louisiana.

*Delena King*   
NOTARY PUBLIC (ID #  22590 )  
Bar Roll

Delena King   
(Print) *Life Commission*

Approved:  *Beau James Brock*   
Beau James Brock, Assistant Secretary