

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF: JEFFERSON PARISH GOVERNMENT AI# 2918 PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, <u>ET SEQ.</u>	* * * * * * * * * *	Settlement Tracking No. SA-WE-10-0015 Enforcement Tracking No. WE-CN-07-0233
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SETTLEMENT

The following Settlement is hereby agreed to between **JEFFERSON PARISH GOVERNMENT** (“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 a wastewater treatment facility at 6250 Lapalco Boulevard in Marrero, Jefferson Parish, Louisiana (“the Facility”).

II.

On April 21, 2009, the Department issued a Compliance Order & Notice of Potential Penalty, Enforcement Number WE-CN-07-0233, to the Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates an existing publicly owned treatment works known as the Marrero Wastewater Treatment Plant that serves the residents and businesses of the City of Marrero. The facility is located at 6250 Lapalco Boulevard in Marrero, Jefferson Parish, Louisiana.

The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0042048 on or about December 29, 2004, with an effective date of February 1, 2005, and an expiration date of January 31, 2010. LPDES permit LA0042048 authorizes the Respondent to discharge certain quantities and qualities of treated sanitary wastewater to the Mississippi River, waters of the state.

On or about January 12, 2007, and December 6, 2007, the Department conducted compliance inspections on the Respondent's facility. The inspections revealed the following operation and maintenance violations:

- A. The belt press and bar screen on the treatment facility were inoperable at the time of the December 6, 2007, inspection.
- B. Solids were present in the clarifier of the treatment facility.
- C. The flowmeter was in poor condition and unable to record flow at levels less than twelve (12) inches.
- D. The refrigerator thermometer was not within acceptable range.
- E. The chart recorder was not recording as specified due to the recorder pen not working.

Each failure to properly operate and maintain the facility is a violation of LPDES permit LA0042048 (Part III, Sections A.2 and B.3.a), La. R. S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.

On or about April 7, 2009, the Department conducted a file review in order to determine compliance with LPDES permit LA0042048 and the Water Quality Regulations. The file review revealed the following violations:

- A. The facility experienced overflows as reported by the Respondent. The overflows are listed as follows:

Date of Overflow:	Overflow Location:	Overflow Amount:
5/4/07	Louis Phillipe/Waters lift station	52,200 gal.
5/30/07	Alpaca/Ventura lift station	940 gal.
8/14/07	Bayou Estates/Caddy force main	1,500 gal.
9/24/07	Ave. D/Westbank Expressway lift station	2,274 gal.
10/22/07	3121 Ventura lift station	243,600 gal.
10/23/07	Westbank Expressway/Ave. E manhole	34,800 gal.
10/23/07	7 th St./Rebenstich manhole	208,800 gal.
10/23/07	3121 Ventura lift station	452,400 gal.
10/23/07	Mt. Kennedy/Rochester lift station	139,200 gal.
1/16/08	13 th St./Farrington lift station	69,600 gal.
1/19/08	5 th St./9 th St. lift station	43,500 gal.
2/21/08	5200 Ehret lift station	141,375 gal.
2/21/08	Louis Phillipe/Waters manhole	52,200 gal.
2/22/08	5 th St./9 th St. lift station	174,000 gal.
11/26/08	College Dr./Barataria Blvd. lift station	1,100 gal.
1/8/09	Force main near Bent Tree Canal	3,300 gal.

Each unauthorized discharge is a violation of LPDES permit LA0042048 (Part I, page 4 and 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.2701.A.

- B. The discharge exceeded permit limitations as reported by the Respondent on discharge monitoring reports. The reported exceedances are as follows:

Monitoring Period:	Parameter:	Permit Limit:	Reported Value:
2/2007	TSS (monthly avg.)	34 mg/L	37 mg/L
	TSS (weekly avg.)	48 mg/L	66 mg/L
3/2007	BOD (monthly avg.)	34 mg/L	38 mg/L
	TSS (monthly avg.)	34 mg/L	59 mg/L
	TSS (weekly avg.)	48 mg/L	74 mg/L
	TSS (monthly loading avg.)	3757 lbs/day	4501 lbs/day
4/2007	TSS (monthly avg.)	34 mg/L	44 mg/L
	TSS (weekly avg.)	48 mg/L	66 mg/L
5/2007	Fecal Coliform (weekly avg.)	400 col./100ml	14532 col./100ml
1/2008	TSS (monthly avg.)	30 mg/L	35 mg/L
	TSS (weekly avg.)	45 mg/L	65 mg/L
	TSS (monthly loading avg.)	2815 lbs./day	3803 lbs./day
	Fecal Coliform (weekly avg.)	400 col./100ml	1039 col./100ml
2/2008	TSS (weekly avg.)	45 mg/L	60 mg/L
	TSS (monthly loading avg.)	2815 lbs./day	2820 lbs./day

3/2008	TSS (monthly avg.)	30 mg/L	32 mg/L
	TSS (weekly avg.)	45 mg/L	56 mg/L
5/2008	TSS (monthly loading avg.)	2815 lbs./day	3931 lbs./day
6/2008	TSS (monthly avg.)	30 mg/L	31 mg/L
	TSS (weekly avg.)	45 mg/L	75 mg/L
	TSS (monthly loading avg.)	2815 lbs./day	2908 lbs./day
9/2008	Fecal Coliform (weekly avg.)	400 col./100ml	609 col./100ml
10/2008	TSS (monthly avg.)	30 mg/L	34 mg/L
11/2008	TSS (monthly avg.)	30 mg/L	34 mg/L
	TSS (weekly avg.)	45 mg/L	51 mg/L
1/2009	BOD (monthly avg.)	30 mg/L	64 mg/L
	BOD (weekly avg.)	45 mg/L	87 mg/L
	BOD (monthly loading avg.)	2815 lbs./day	5251 lbs./day
	TSS (monthly avg.)	30 mg/L	31 mg/L
	TSS (weekly avg.)	45 mg/L	48 mg/L
2/2009	BOD (monthly avg.)	30 mg/L	78 mg/L
	BOD (weekly avg.)	45 mg/L	177 mg/L
	BOD (monthly loading avg.)	2815 lbs./day	5090 lbs./day
	TSS (monthly avg.)	30 mg/L	34 mg/L
	TSS (weekly avg.)	45 mg/L	62 mg/L

Each effluent exceedance is a violation of LPDES permit LA0042048 (Part I, page 4 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.

- C. For the monitoring period of January 2008, the Respondent failed to record flow from January 18th through January 20th. LPDES permit LA0042048 requires that the Respondent record flow continuously. The Respondent's failure to monitor its effluent is a violation of LPDES permit LA0042048 (Part I, page 4 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC33:IX.2701.A.
- D. The Respondent failed to sample the effluent according to LPDES permit LA0042048 as reported by the Respondent on non-compliance reports (NCRs). The failures to sample are listed as follows:

Date of Failure to Sample:	Parameter:	Permit Required Frequency of Analysis:
Week of July 1, 2007	Fecal Coliform	Daily
May 2008	Fecal Coliform (30 of 31 days)	Daily
	pH (29 of 31 days)	Daily
August 30, 2008	BOD	Daily
	TSS	Daily

August 31, 2008	BOD TSS Fecal Coliform	Daily Daily Daily
September 1, 2008	BOD TSS Fecal Coliform pH	Daily Daily Daily Daily
September 2, 2008	BOD TSS Fecal Coliform pH	Daily Daily Daily Daily
September 3, 2008	Fecal Coliform pH	Daily Daily

Each failure to sample the effluent as specified in the permit is a violation of LPDES permit LA0042048 (Part I, page 4 and Part III, Sections A.2, and C.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

- E. The discharge exceeded permit limitations for the seven (7) day average as reported by the Respondent on NCRs. The reported exceedances are as follows:

Date:	Parameter:	Permit Limit: (7 day average)	Reported Value: (7 day average)
2/18/2007	TSS	48 mg/L	49 mg/L
2/25/2007	TSS	48 mg/L	51 mg/L
3/4/2007	TSS	48 mg/L	60 mg/L
3/25/2007	TSS	48 mg/L	70 mg/L
2/10/2008	TSS	48 mg/L	60 mg/L
12/28/2008	BOD TSS	45 mg/L 45 mg/L	55 mg/L 48 mg/L
1/4/2009	BOD	45 mg/L	50 mg/L
1/11/2009	BOD	45 mg/L	58 mg/L
1/25/2009	BOD	45 mg/L	69 mg/L
2/8/2009	BOD	45 mg/L	54 mg/L
2/15/2009	BOD	45 mg/L	53 mg/L

Each effluent exceedance is a violation of LPDES permit LA0042048 (Part I, page 4 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.

The following violations were not cited in Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-07-0233, but were revealed during a file review

conducted on or about February 23, 2010 and are hereby included and settled as part of this settlement agreement:

- A. The facility experienced overflows as reported by the Respondent. The overflows are listed as follows:

Date of Overflow:	Overflow Location:	Overflow Amount:
6/5/09	Avenue D/4 th St. lift station	100 gal.
6/15/09	Black Oak Dr./Bayou Des Familles manhole	120 gal.
8/21/09	Destrehan Ave./Patriot St. manhole	100 gal.
8/24/09	Jupiter St./Breckenridge Dr. force main	400 gal.

Each unauthorized discharge is a violation of LPDES permit LA0042048 (Part I, page 4 and 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.2701.A.

- B. The discharge exceeded permit limitations as reported by the Respondent on discharge monitoring reports. The reported exceedances are as follows:

Monitoring Period:	Parameter:	Permit Limit:	Reported Value:
5/2009	TSS (7 day average)	45 mg/L	84 mg/L
6/2009	BOD (weekly avg.)	45 mg/L	53 mg/L
	TSS (monthly avg.)	30 mg/L	63 mg/L
	TSS (weekly avg.)	45 mg/L	135 mg/L
	TSS (monthly loading avg.)	2815 lbs./day	4036 lbs./day
9/2009	TSS (weekly avg.)	45 mg/L	47 mg/L
10/2009	Fecal Coliform (weekly avg.)	400 col./100ml	410 col./100ml
12/2009	BOD (weekly avg.)	45 mg/L	54 mg/L
	BOD (monthly loading avg.)	2815 lbs./day	4257 lbs./day
	TSS (weekly avg.)	45 mg/L	49 mg/L
	TSS (monthly loading avg.)	2815 lbs./day	5153 lbs./day

Each effluent exceedance is a violation of LPDES permit LA0042048 (Part I, page 4 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.

In response to the Compliance Order & Notice of Potential Penalty, Enforcement Number WE-CN-07-0233, 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 THIRTY-ONE THOUSAND EIGHT HUNDRED AND 00/100 DOLLARS (\$31,800.00), of which FIVE THOUSAND FIVE HUNDRED SIXTY-FIVE AND 98/100 DOLLARS (\$5,565.98) represents the Department'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 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), the Compliance Order & Notice 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. Respondent may urge any mitigating factors it believes applicable in any such future proceedings.

VII.

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.

VIII.

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.

IX.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson 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 notice.

X.

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).

XI.

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

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.

JEFFERSON PARISH GOVERNMENT

BY: Peggy O. Barton
(Signature)

PEGGY O. BARTON
(Print)

TITLE: Interim Parish Attorney

THUS DONE AND SIGNED in duplicate original before me this 15th day of June, 2010, at 11:46 am.

Liza M. Caluda
NOTARY PUBLIC (ID # 31647)
Bar Roll # 3

Liza M. Caluda
(Print)

Commission expires upon death

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch, Secretary

BY: RJB

Beau James Brock
Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 12th day of October, 2010, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: Paul D. Miller
Paul D. Miller, P.E.,
Assistant Secretary