

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TOWN OF BLANCHARD

AI # 130500

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

* Settlement Tracking No.
* SA-WE-09-0029
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* Enforcement Tracking No.
* WE-C-05-0485
* WE-PP-06-0376
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SETTLEMENT

The following Settlement is hereby agreed to between Town of Blanchard (“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 potable water treatment plant located in Mooringsport, Caddo Parish, Louisiana (“the Facility”).

II

On March 16, 2006, the Department issued to Respondent a Compliance Order, Enforcement No. WE-C-05-0485, which was based upon the following findings of fact:

The Respondent owns and/or operates a potable water treatment plant located at 6205 N. Louisiana Highway 169 in Mooringsport, Caddo Parish, Louisiana. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority to discharge wastes and/or other substances to the waters of the state.

An inspection conducted by the Department on or about August 24, 2005, pursuant to a citizen's complaint, revealed the Respondent did cause or allow an unauthorized discharge of untreated filter backwash wastewaters into Shettleworth Bayou, thence to Cross Lake, both waters of the state. The unauthorized discharge of filter backwash wastewater is in 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.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

A subsequent file review conducted on or about November 7, 2005, revealed the Respondent failed to apply for a permit. The failure to apply for a permit is a violation of LAC 33:IX.501.A, and LAC 33:IX.2501.A.1.

On November 6, 2007, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. WE-PP-06-0376, which was based upon the following findings of fact:

On or about October 18, 2007, a file review of the Town of Blanchard (The Respondent) water treatment facility 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 6205 N. Louisiana Highway 169 in Mooringsport, Caddo Parish, Louisiana.

The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG380000 on June 9, 2006, and specifically was assigned permit number LAG380085. The permit will expire on December 31, 2009. Under the terms and conditions of the LPDES permit, the Respondent is authorized to discharge filter backwash and clarifier blowdown wastewater from Outfall 001 into a drainage ditch, thence into Walnut Bayou, waters of the state.

The Respondent was issued Compliance Order WE-C-05-0485 on or about March 16, 2006, for unauthorized discharges of filter backwash wastewater and for failure to apply for an LPDES

permit. The Order required the Respondent to immediately cease all unauthorized discharges into the waters of the state, to submit a completed Notice of Intent (NOI), to comply with the interim limits and monitoring requirements of the Compliance Order, Enforcement No. WE-C-05-0485, and to submit a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken to achieve compliance. The Respondent submitted a written response to Compliance Order No. WE-C-05-0485 on or about May 2, 2006. Compliance Order No. WE-C-05-0485 is a final action of the Department and not subject to further review.

The following violations were noted during the course of the file review:

A file review conducted by the Department on or about October 18, 2007, revealed that the Respondent operated without a Louisiana Pollutant Discharge Elimination System Permit LAG380085 from 1978 through June 9, 2006, the effective date of LPDES permit. Each unauthorized discharge of filter backwash and clarifier blowdown into waters of the state constitute violations 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.

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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which One Thousand Sixty-Four and 92/100 Dollars (\$1,064.92) 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).

V

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order, the 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.

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 Caddo 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.

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.

TOWN OF BLANCHARD

BY: _____
(Signature)

(Print)

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
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, 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: 
Cheryl Sonnier Nolan, Assistant Secretary