

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CITY OF EUNICE
AI # 19642

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

*
*
* **Enforcement Tracking No.**
* **WE-CN-00-0330**
* **WE-CN-01-0524**
* **WE-CN-02-0475**
* **WE-CN-03-0065**
* **WE-CN-03-0550**
*
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between City of Eunice (“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 who operates a municipal wastewater treatment facility located at 930 College Road, Eunice, St. Landry Parish, Louisiana (“the Facility”).

II

On November 25, 2003, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-03-0550, which was based upon the following findings of fact:

The Respondent was issued National Pollutant Discharge Elimination System (NPDES) permit LA0041751 effective on November 1, 1995, and which expired October 31, 2000. In

accordance with the assumption of the NPDES program by the state of Louisiana, NPDES permit LA0041751 became a Louisiana Pollutant Discharge Elimination System (LPDES) permit with the same expiration date. The Respondent submitted an LPDES permit renewal application on or about May 24, 2000, therefore, LPDES permit LA0041751 has been administratively continued. LPDES permit LA0041751 authorizes the Respondent to discharge treated sanitary wastewater into an unnamed stream, thence to Bayou Mallet, both waters of the state.

The Respondent was issued Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-00-0030 on or about November 30, 2000, for the violations of effluent limitations, operation and maintenance requirements, sampling and monitoring violations, and record and reporting requirements. The Order required the Respondent to immediately cease unauthorized discharges to waters of the state, submit a written report to include the circumstances of the cited violations, and submit a comprehensive plan for the elimination and prevention of such noncomplying discharges. The Respondent submitted a written response on or about January 23, 2001. Compliance Order & Notice Of Potential Penalty WE-CN-00-0330 is a final action of the Department and is not subject to further review.

The Respondent was issued Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-01-0524 on or about November 29, 2001, for operation and maintenance deficiencies, failure to properly monitor flow, and violations of effluent limitations. The Order required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0041751 and submit a written report that shall include a detailed description of the circumstances of the cited violations, and the actions taken to achieve compliance with

Compliance Order & Notice Of Potential Penalty WE-CN-01-0524. The Respondent submitted a written response on or about January 16, 2002. Compliance Order & Notice Of Potential Penalty WE-CN-01-0524 is a final action of the Department and is not subject to further review.

The Respondent was issued Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-02-0475 on or about August 9, 2002, for operation and maintenance deficiencies, violations of effluent limitations, and failure to submit non-compliance reports. The Order required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0041751, and submit a written report that shall include a detailed description of the circumstances of the cited violations, and the actions taken to achieve compliance with Compliance Order & Notice Of Potential Penalty WE-CN-02-0475. The Respondent submitted a written response on or about September 13, 2002. Compliance Order & Notice Of Potential Penalty WE-CN-02-0475 is a final action of the Department and is not subject to further review.

The Respondent was issued Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-03-0065 on or about May 30, 2003, for operations and maintenance deficiencies, recordkeeping deficiencies, failure to submit DMRs in a timely manner, and violations of effluent limitations. The Order required the Respondent to take any and all steps necessary to meet and maintain compliance with LPDES permit LA0041751 and submit a written report that shall include a detailed description of the circumstances of the cited violations, and the actions taken to achieve compliance with Compliance Order & Notice Of Potential Penalty WE-CN-03-0065. The Respondent submitted a written response on or about June 14, 2003. Compliance Order & Notice

Notice of Potential Penalty WE-CN-03-0065 is a final action of the Department and is not subject to further review.

A file review conducted by the Department on or about November 24, 2003, revealed the following effluent violations, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
04/2003	001	BOD Monthly Average	10 mg/L	15 mg/L
04/2003	001	BOD Daily Maximum	15 mg/L	22 mg/L
05/2003	001	BOD Monthly Average	10 mg/L	20 mg/L
05/2003	001	BOD Daily Maximum	15 mg/L	65 mg/L
06/2003	001	BOD Monthly Average	10 mg/L	14 mg/L
06/2003	001	BOD Daily Maximum	15 mg/L	60 mg/L
06/2003	001	TSS Daily Maximum	23 mg/L	30 mg/L
07/2003	001	BOD Monthly Average	208 lbs/day	276 lbs/day
07/2003	001	BOD Monthly Average	10 mg/L	32 mg/L
07/2003	001	BOD Daily Maximum	15 mg/L	84 mg/L
08/2003	001	BOD Daily Maximum	15 mg/L	22 mg/L
08/2003	001	Total Residual Chlorine Instantaneous Maximum	0.099 mg/L	0.90 mg/L
08/2003	001	Fecal Coliform Monthly Average	200 col/100 ml	>1000 col/100 ml
08/2003	001	Fecal Coliform Daily Maximum	400 col/100 ml	>1000 col/100 ml
09/2003	001	BOD Monthly Average	208 lbs/day	275 lbs/day
09/2003	001	BOD Monthly Average	10 mg/L	23 mg/L
09/2003	001	BOD Daily Maximum	15 mg/L	81 mg/L
09/2003	001	TSS Monthly Average	313 lbs/day	578 lbs/day
09/2003	001	TSS Monthly Average	15 mg/L	48 mg/L
09/2003	001	TSS Daily Maximum	23 mg/L	287 mg/L
09/2003	001	Total Residual Chlorine Instantaneous Maximum	0.099 mg/L	0.81 mg/L
09/2003	001	Fecal Coliform Monthly Average	200 col/100 ml	>1000 col/100 ml
09/2003	001	Fecal Coliform Daily Maximum	400 col/100 ml	>1000 col/100 ml

Each excursion of the permit constitutes violations of Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-00-0330, Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-01-0524, Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-02-0475, Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-03-0065, LPDES permit LA0041751 (Part I, Page 2 and Part III, Section A.2), La. R.S. 30:2076 (A) (3) LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.A.

Further file review by the Department on or about November 24, 2003, revealed that the DMRs for July and August 2003 were postmarked on October 22, 2003, and received by the Department on or about October 24, 2003. The Respondent is required by LPDES permit LA0041751 to submit each monthly DMR by the 25th day of the month following the reporting period. The Respondent's failure to submit its DMRs timely is in violation of Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-00-0330, Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-01-0524, Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-02-0475, Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-03-0065, LPDES permit LA0041751 (Part I, Section C.2. and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3) LAC 33:IX.501.A, and LAC 33:IX.2355.A.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, WE-CN-03-0550, Respondent did not make a 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-NINE THOUSAND THREE HUNDRED TWENTY-THREE AND 49/100 DOLLARS (\$39,323.49) of which ONE THOUSAND SEVEN HUNDRED TWENTY-EIGHT AND 28/100 DOLLARS (\$1,728.28) 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).

VI

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

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 St. Landry Parish. 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.

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. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI

In consideration of the above, any claims for penalties, fines or other sanctions for the violations described herein are hereby compromised and settled in accordance with the terms of this Settlement. Respondent's liability for those claims shall be discharged upon receipt by the Department of the payment described in Paragraph V, above.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

CITY OF EUNICE

Earlene LeJeune
(Signature)

BY: E. Lynn Lejeune
(Signature)

Earlene LeJeune
(Printed or Typed)

E. Lynn Lejeune
(Printed or Typed)

Drucey Sattler
(Signature)

TITLE: Mayor

Drucey Sattler
(Printed or Typed)

THUS DONE AND SIGNED in duplicate original before me this 15TH day of March, 20 04, at Eunice, La.

[Signature]
NOTARY PUBLIC (ID # 152)

Douglas L. Cart
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of
July, 20 04, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 18675)

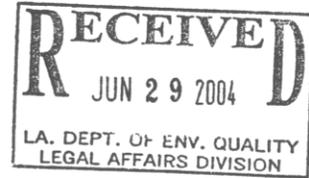
Christopher A. Ratcliff
(Printed or Typed)

Approved: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



June 28, 2004

Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
City of Eunice
WE-CN-00-0330, et al

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw