

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

GUSTE ISLAND UTILITY CO., INC.

AI # 122552

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

* **Settlement Tracking No.**
* **SA-WE-21-0047**
*
* **Enforcement Tracking No.**
* **WE-CN-18-00896**
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SETTLEMENT

The following Settlement is hereby agreed to between Guste Island Utility Co., Inc. (“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 that owns and/or operates a privately owned treatment works located in Madisonville, St. Tammany Parish, Louisiana (“the Facility”).

II

On November 8, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-18-00896 (Exhibit 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 FIFTY-ONE THOUSAND NINE HUNDRED SEVENTY AND NO/100 DOLLARS (\$51,970.00), of which One Thousand Fifty-Nine and 29/100 Dollars (\$1,059.29) 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), permit record(s), the Consolidated 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.

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

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

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 and wording 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.

GUSTE ISLAND UTILITY CO., INC.

BY: _____
(Signature)

(Printed)

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**
Chuck Carr Brown, Ph.D., Secretary


BY: _____
Lourdes Iturralde, 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)

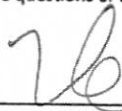
Approved:  _____
Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312				CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY			
Enforcement Tracking No.	WE-CN-18-00896		Certified Mail No.	7012 3460 0001 0423 1662			
Agency Interest (AI) No.	122552		Contact Name	Diane Matthews			
Alternate ID No.	LA0120243		Contact Phone No.	225 219-3078			
Respondent:	Guste Island Utility CO., INC.		Facility Name:	Guste Island Wetland Assimilation Project			
	c/o Martha L. Jumonville		Physical Location:	Guste Island Road off Highway 22			
	Agent for Service of Process						
	9 Starbrush Circle, Suite 101		City, State, Zip:	Madisonville, LA			
	Covington, LA 70433		Parish:	St. Tammany			
This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).							
FINDINGS OF FACT							
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.							
I.	The Respondent owns and/or operates a privately owned treatment works located on Guste Island Road, in Madisonville, St. Tammany Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0120243 on January 7, 2008, with an effective date of January 7, 2008 and expiration date of January 6, 2013. The Respondent submitted a renewal application on or about August 31, 2012 and a request for permit modification on March 9, 2016. LPDES Permit LA0120243 is administratively continued. Under the terms and conditions of LPDES Permit LA0120243, the Respondent is permitted to discharge treated sanitary wastewater into the Guste Island Restoration Wetlands, thence into High Bridge Canal, thence into the Tchafuntee River, thence into Lake Pontchartrain, all waters of the state.						
	Date of Violation	Description of Violation					
II.	Inspection(s) & File Review 08/29/2018 02/07/2019	The Respondent failed to comply with LPDES Permit LA0120243. Specifically, the Respondent failed to submit timely Annual Wetland Monitoring Reports by due dates required by the permit. (LPDES Permit LA0120243 (Part II, Other Requirements, Section B.1 & Part III, Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A) See Table (1)-Late Submittals					
III.	Inspection(s) 08/29/2018	The Respondent failed to comply with LPDES Permit LA0120243. Specifically, the Respondent failed to conduct metals sampling of the surface water from 2014 through 2016 for Cadmium, Copper, Iron, Nickel, Silver and Selenium. (LPDES Permit LA0120243 (Part II, Other Requirements, Section B.1 & Part III, Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)					
IV.	Inspection(s) & File Review 08/29/2018 02/07/2019	The Respondent failed to comply with LPDES Permit LA0120243. Specifically, the Respondent failed to submit the Annual Wetland Monitoring Report for 2018 due on February 7, 2019. (LPDES Permit LA0120243 (Part II, Other Requirements, Section B.1 & Part III, Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)					
V.	File Review 02/07/2019	The Respondent failed to comply with LPDES Permit LA0120243. Specifically, the Respondent failed to submit quarterly Discharge Monitoring Reports (DMRs) for monitoring period end date September 30, 2017. (LPDES Permit LA0120243 (Part II, Other Requirements, Section A.10 & Part III, Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)					
VI.	Inspection(s) 08/29/2018	The Respondent failed to comply with LPDES Permit LA0120243. Specifically, the Respondent failed to conduct growth studies from 2014 through 2018. (LPDES Permit LA0120243 (Part II, Other Requirements, Section B.1 & Part III, Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A)					
ORDER							
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:							
I.	To take, immediately upon receipt of this COMPLIANCE ORDER , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.						
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER . This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.						
III.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , the Annual Wetland Monitoring Report for 2018 as required by Part II, Other Requirements of LPDES Permit LA0120243.						
RIGHT TO APPEAL							
I.	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER .						
II.	The request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency						

	Interest Number, which are located in the upper left-hand corner of the first page of this document and should be directed to the address specified in this document.				
III.	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this COMPLIANCE ORDER may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law's (DAL) Procedural Rules. The Department may amend or supplement this COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.				
IV.	This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.				
V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this COMPLIANCE ORDER shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.				
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.				
VII.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.				
NOTICE OF POTENTIAL PENALTY					
I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.				
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Diane Matthews at 225 219-3078 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY .				
III.	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.				
IV.	This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.				
CONTACTS AND SUBMITTAL OF INFORMATION					
<table border="1" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Diane Matthews </td> <td style="width: 50%; vertical-align: top;"> Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-18-00896 Agency Interest No. 122552 </td> </tr> <tr> <td style="vertical-align: top;"> Water Permits Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division </td> <td style="vertical-align: top;"> Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802 </td> </tr> </table>		Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Diane Matthews	Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-18-00896 Agency Interest No. 122552	Water Permits Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
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HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY					
<ul style="list-style-type: none"> • To appeal the CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY. • To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified. <ul style="list-style-type: none"> ○ Before requesting closure of the COMPLIANCE ORDER portion, please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. • To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. <ul style="list-style-type: none"> ○ The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. ○ The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. ○ The settlement offer amount may be entered on the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent must include a justification of the offer. 					

- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
- Before requesting closure of the **NOTICE OF POTENTIAL PENALTY** portion, please contact the Financial Services Division at 225-219-3865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Diane Matthews at 225 219-3078 or Diane.Matthews@la.gov.




Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: _____

11-8-19

Attachment(s)

- Request to Close
- Annual Wetland Monitoring Reports-Table (1) Late Submittals

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		COMPLIANCE ORDER REQUEST TO CLOSE			
Enforcement Tracking No.	WE-C-18-00896	Contact Name	Diane Matthews		
Agency Interest (AI) No.	122552	Contact Phone No.	225 219-3078		
Alternate ID No.	LA0120243				
Respondent:	Guste Island Utility CO., INC. c/o Martha L. Jumonville Agent for Service of Process 9 Starbrush Circle, Suite 101 Covington, LA 70433	Facility Name:	Guste Island Wetland Assimilation Project		
		Physical Location:	Guste Island Road off Highway 22		
		City, State, Zip:	Madisonville, LA		
		Parish:	St. Tammany		
STATEMENT OF COMPLIANCE					
STATEMENT OF COMPLIANCE		Date Completed	Copy Attached?		
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.					
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) III of the "Order" portion of the COMPLIANCE ORDER.					
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:					
CERTIFICATION STATEMENT					
<i>I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.</i>					
Respondent's Signature		Respondent's Printed Name		Respondent's Title	
Respondent's Physical Address		Respondent's Phone #		Date	
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:					
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Diane Matthews					

If you have questions or need more information, you may contact Diane Matthews at 225 219-3078 or Diane.Matthews@la.gov.

Guste Island Utility Co., INC.

Annual Wetland Monitoring Reports-Late Submittals (Table 1)

Report Year	Due Date	Date Received
2013	02/07/2014	01/25/2018
2014	02/07/2015	01/25/2018
2015	02/07/2016	01/25/2018
2016	02/07/2017	01/25/2018
2017	02/07/2018	12/03/2018