

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

HARD ROCK MARINE SERVICE, L.L.C.

AI # 14092

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.

\* SA-MM-22-0030

\*

\* Enforcement Tracking No.

\* MM-CN-18-00865

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SETTLEMENT

The following Settlement is hereby agreed to between Hard Rock Marine Service, L.L.C. (“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 limited liability company that owns and/or operates a boat and barge repair facility located in Lafitte, Jefferson Parish, Louisiana (“the Facility”).

II

On December 21, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-18-00865 (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 THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$3,500.00), of which Eight Hundred Ninety and 78/100 Dollars (\$890.78) 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 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 Jefferson 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.

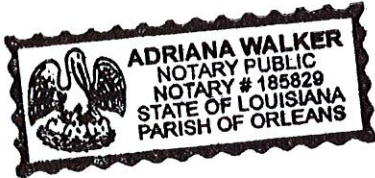
HARD ROCK MARINE SERVICE, L.L.C.

BY: Anthony John Kulich Jr.  
(Signature)

Anthony John Kulich Jr.  
(Printed)

TITLE: pres

THUS DONE AND SIGNED in duplicate original before me this 5 day of June, 20 23, at Marrero, Louisiana.



[Signature]  
NOTARY PUBLIC (ID # 185829)

Adriana Walker  
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Roger W. Gingles, Secretary

BY: [Signature]  
Celena J. Cage, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 3rd day of August, 20 23, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 66881)

Jay L. Glorioso  
(stamped or printed)

Approved: [Signature]  
Celena J. Cage, Assistant Secretary

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

## State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

December 21, 2018

CERTIFIED MAIL (7018 0360 0001 5039 0652)  
RETURN RECEIPT REQUESTED

**HARD ROCK MARINE SERVICE, L.L.C.**

c/o A. J. Lulich  
Agent for Service of Process  
709 Jean Lafitte Boulevard  
Lafitte, Louisiana 70067

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. MM-CN-18-00865  
AGENCY INTEREST NO. 14092**

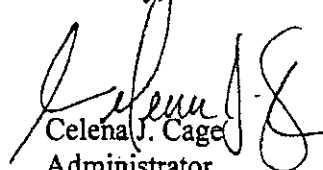
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **HARD ROCK MARINE SERVICE, L.L.C. (RESPONDENT)** for the violations described therein.

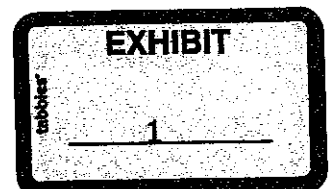
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Cynthia Arrison at (225) 219-3796.

Sincerely,

  
Celena J. Cage  
Administrator  
Enforcement Division

CJC/cla  
Alt ID No. LAD985224518  
Attachment



**STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE**

|   |   |                                 |
|---|---|---------------------------------|
| <b>IN THE MATTER OF</b>                 | * |                                 |
|   | * |                                 |
| <b>HARD ROCK MARINE SERVICE, L.L.C.</b> | * | <b>ENFORCEMENT TRACKING NO.</b> |
| <b>JEFFERSON PARISH</b>                 | * |                                 |
| <b>ALT ID NO. LAD985224518</b>          | * | <b>MM-CN-18-00865</b>           |
|   | * |                                 |
|   | * | <b>AGENCY INTEREST NO.</b>      |
| <b>PROCEEDINGS UNDER THE LOUISIANA</b>  | * |                                 |
| <b>ENVIRONMENTAL QUALITY ACT,</b>       | * | <b>14092</b>                    |
| <b>La. R.S. 30:2001, ET SEQ.</b>        | * |                                 |

**CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **HARD ROCK MARINE SERVICE, L.L.C. (RESPONDENT)** 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**

I.

The Respondent owns and/or operates a boat and barge repair facility located at 709 Jean Lafitte Boulevard in Lafitte, Jefferson Parish, Louisiana. The Respondent notified as a Conditionally Exempt Small Quantity Generator of hazardous waste and has been assigned EPA identification number LAD985224518.

II.

On or about June 4, 2018, the Department conducted an inspection at the above referenced facility to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed, upon detection of a release of used oil to the environment, to clean up and manage properly the released used oil and other materials, in violation of LAC 33:V.4013.E.3. Specifically, the Respondent failed to clean up approximately eight (8) separate areas of spilled used oil and used oil stained vegetation observed in proximity to heavy equipment, removed engines/motors, and an over pack drum.
- B. The Respondent failed to clearly label or mark containers and aboveground tanks used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, the following containers and tanks of used oil were not labeled:
1. One (1) over pack drum containing the contents of a damaged drum, used oil, sorbents, and associated materials located in the Staging and Paint/Blast Yard/Lay-Down Yard;
  2. One (1) 500-gallon tank, which contained used oil according to representatives of the Respondent, located in secondary containment in the outside used oil storage area;
  3. Four (4) 55-gallon drums containing used oil, spent sorbents, and oily rags/gloves located in secondary containment in the outside used oil storage area;
  4. Two (2) five-gallon buckets containing used oil and oil rags/gloves located in secondary containment in the outside use oil storage area;
  5. Three (3) 55-gallon drums, which contained used oil according to a representative of the Respondent, located on pallets outside of the secondary containment in the used oil storage area;
  6. Three (3) 55-gallon metal drums containing used oil located outside of the hazardous waste container storage area.
- C. The Respondent failed to ensure containers holding hazardous waste remained closed during storage in accordance with LAC 33:V.2107.A, in violation of LAC 33:V.4013.B. Specifically, the containers described in Findings of Fact Paragraphs II.B.3 and 4 were not closed during the inspection, and used oil was not being added or removed.
- D. The Respondent failed to clean up any spilled material that is a hazardous waste or that will be disposed of as a hazardous waste, in violation of LAC 33:V.1121.A. Specifically, approximately six (6) cans of leaking paint waste (D001, F003, F005) were observed. During the inspection, representatives of the Respondent determined the paint waste was hazardous waste. A representative of the Respondent submitted photos to the Department via e-mail dated July 24, 2018, to demonstrate the leaking paint cans were removed.



- E. The Respondent failed to label or clearly mark waste batteries with the phrase, "Universal Waste – Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)," in violation of LAC 33:V.3823.A.1. Specifically, eighteen (18) unlabeled waste batteries were observed scattered throughout the facility. A representative of the Respondent submitted a disposal/recycling receipt for eighteen (18) waste batteries to the Department on or about June 6, 2018.
- F. The Respondent failed to contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container, in violation of LAC 33:V.3821.A.1. Specifically, the Respondent failed to properly store five (5) damaged waste batteries. A representative of the Respondent submitted a disposal/recycling receipt for eighteen (18) waste batteries to the Department on or about June 6, 2018.
- G. The Respondent caused and/or allowed the unauthorized disposal of solid waste, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, regulated solid wastes including damaged ropes, plastic wastes, scrap metal, hoses, wood wastes, litter, construction debris, and damaged boat parts were observed on the ground throughout the facility.

### **COMPLIANCE ORDER**

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Hazardous Waste and Solid Waste Regulations.

II.

To excavate, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all areas of visibly contaminated soils as identified in Findings of Fact Paragraph II.A. The Respondent shall properly dispose of all contaminated soils in accordance with the Solid Waste and Hazardous Waste Regulations, and submit documentation of disposal to the Enforcement Division within fifteen (15) days of completion.

III.

To label or mark clearly, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all containers used to store used oil with the words "Used Oil" in accordance with LAC 33:V.4013.D.

IV.

To close, immediately upon receipt of this **COMPLIANCE ORDER**, all containers used to store used oil except when necessary to add or remove used oil, in accordance with LAC 33:V.2107.A.

V.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind at the facility or any other site that is not permitted to receive such waste.

VI.

To remove, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, all solid waste at the facility, including but not limited to the waste described in Findings of Fact Paragraph II.G, to a permitted or authorized solid waste disposal facility. The Respondent shall also submit documentation of proper disposal to the Enforcement Division within fifteen (15) days of completion.

VII.

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 violations 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:

Office of Environmental Compliance  
Post Office Box 4312  
Baton Rouge, Louisiana 70821-4312  
Attn: **Cynthia Arrison**  
Re: **Enforcement Tracking No. MM-CN-18-00865**  
**Agency Interest No. 14092**

**THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:**

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 right-hand corner of the first page of this document and should be directed to the following:

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. MM-CN-18-00865**  
**Agency Interest No. 14092**

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 (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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, 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 Cynthia Arrison at (225) 219-3796 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **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. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. 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.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.


Baton Rouge, Louisiana, this 21<sup>st</sup> day of December, 2018.



\_\_\_\_\_  
Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Cynthia Arrison

|  |  |  |  |   |
|--|--|--|--|---|
| LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY<br>OFFICE OF ENVIRONMENTAL COMPLIANCE<br>ENFORCEMENT DIVISION<br>POST OFFICE BOX 4312<br>BATON ROUGE, LOUISIANA 70821-4312 |  | CONSOLIDATED COMPLIANCE ORDER &<br>NOTICE OF POTENTIAL PENALTY<br>REQUEST TO CLOSE |  |  |
|--|--|--|--|---|

|                          |                                  |                    |                                  |
|--------------------------|----------------------------------|--------------------|----------------------------------|
| Enforcement Tracking No. | MM-CN-18-00865                   | Contact Name       | Cynthia Arrison                  |
| Agency Interest (AI) No. | 14092                            | Contact Phone No.  | (225) 219-3796                   |
| Alternate ID No.         | LAD985224518                     |                    |                                  |
| Respondent:              | HARD ROCK MARINE SERVICE, L.L.C. | Facility Name:     | Hard Rock Marine Service, L.L.C. |
|                          | c/o A. J. Lulich                 | Physical Location: | 709 Jean Lafitte Boulevard       |
|                          | Agent for Service of Process     |                    |                                  |
|                          | 709 Jean Lafitte Boulevard       | City, State, Zip:  | Lafitte, Louisiana 70067         |
|                          | Lafitte, Louisiana 70067         | Parish:            | Jefferson                        |

**STATEMENT OF COMPLIANCE**

| STATEMENT OF COMPLIANCE  | Date Completed | Copy Attached? |
|--|----------------|----------------|
| A written report was submitted in accordance with Paragraph VII of the "Order" portion of the COMPLIANCE ORDER.  |                |                |
| All necessary documents were submitted to the Department in accordance with Paragraphs II and VI 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 cf: |                |                |

**SETTLEMENT OFFER (OPTIONAL)**

*(check the applicable option)*

|       |  |
|-------|--|
| _____ | The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.  |
| _____ | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (MM-CN-18-00865), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.   |
| _____ | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (MM-CN-18-00865), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</b></li> </ul> |
|       | The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (MM-CN-18-00865) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.  |

| CERTIFICATION STATEMENT  |                           |                    |
|--|---------------------------|--------------------|
| <p><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></p> |                           |                    |
| 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<br>Office of Environmental Compliance<br>Enforcement Division<br>P.O. Box 4312<br>Baton Rouge, LA 70821<br>Attn: Cynthia Arrison   |                           |                    |