

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LULA-WESTFIELD, L.L.C.

AI # 4182, 42344

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

* **Settlement Tracking No.**
* **SA-AE-23-0013**
*
* **Enforcement Tracking Nos.**
* **AE-PP-17-00513**
* **AE-PP-21-00197**
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SETTLEMENT

The following Settlement is hereby agreed to between Lula-Westfield, 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 facilities located in Assumption Parish, Louisiana (“the Facilities”).

II

On June 19, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-17-00513 (Exhibit 1).

On February 22, 2022, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-21-00197 (Exhibit 2).

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 ELEVEN THOUSAND AND NO/100 DOLLARS (\$11,000.00), of which Three Thousand Six Hundred Sixty and 08/100 Dollars (\$3,660.08) 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 Notices 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 Assumption 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 attached hereto.

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.

LULA-WESTFIELD, L.L.C.

BY: E. Stephen Savoie
(Signature)

E. Stephen Savoie
(Printed)

TITLE: Chief Executive Officer

THUS DONE AND SIGNED in duplicate original before me this 17th day of April, 20 23, at Paincourtville, LA.

[Signature]
NOTARY PUBLIC (ID # _____)

Thomas D. Dalgle
Notary Public
Bar Roll No. 20530

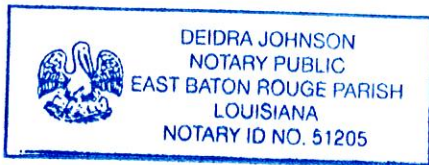
Expires at Death
(stamped or printed)

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 11th day of July, 20 23, at Baton Rouge, Louisiana.



[Signature]
NOTARY PUBLIC (ID # 51205)

Deidra Johnson

(stamped or printed)

Commission Expires Upon Death

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

June 19, 2019

EXHIBIT

1

CERTIFIED MAIL (7014 0510 0002 3595 3984)
RETURN RECEIPT REQUESTED

LULA-WESTFIELD, L.L.C.
c/o Thomas D. Daigle
Agent for Service of Process
6118 Louisiana Highway 1
Paincourtville, LA 70391

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-17-00513
AGENCY INTEREST NOS. 4182, 42344**

Dear Sir:

On or about November 17, 2016, an inspection of the **LULA RAW SUGAR FACILITY, (AI# 4182)**, a raw sugar cane crushing and processing facility, owned and/or operated by **LULA-WESTFIELD, L.L.C. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 351 Louisiana Highway 999 in Belle Rose, Assumption Parish, Louisiana. The facility operates, or has operated under the Title V air permits listed in Table A:

TABLE A

Permit No.	Permit Issue Date	Permit Expiration Date
0200-00006-V7	April 4, 2011	August 20, 2014
0200-00006-V7AA	November 10, 2011	-
0200-00006-V8	June 30, 2014	June 30, 2019
0200-00006-V9	September 28, 2016	June 30, 2019
0200-00006-V10	March 1, 2018	June 30, 2019

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection, and subsequent file review conducted on April 25, 2019:

- A. On November 17, 2016, the Gasoline Storage Tank (EQT 0013) was not equipped with a submerged fill pipe. The failure to equip EQT 0013 with a

Lula-Westfield, L.L.C.
 AE-PP-17-00513
 Page 2

submerged fill pipe is a violation of Specific Requirement (SR) 88 of Title V Permit No. 0200-00006-V9, LAC 33:III.2013.A, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In electronic correspondence dated July 6, 2018, the Respondent disclosed that a submerged fill pipe was installed on December 2, 2016.

- B. On November 17, 2016, the facility had on site an emergency generator, powered by a diesel engine that was not listed in Title V Permit No. 0200-00006-V9. The failure to submit a permit application prior to construction, reconstruction, or modification of any emission source is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2). In addition, each incident of operation of any emission source prior to receiving approval from the permitting authority is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence dated January 4, 2017, the Respondent submitted an application to modify Title V Permit No. 0200-00006-V9 to incorporate the diesel engine. Title V Permit No. 0200-00006-V10 was issued March 1, 2018, incorporating the engine as EQT 0019.

On or about November 16, 2016, and November 5, 2018, inspections of the WESTFIELD RAW SUGAR FACILITY (AI# 42344), a raw sugar cane crushing and processing facility, owned and/or operated by the Respondent, were performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at 451 Louisiana Highway 1005 in Paincourtville, Assumption Parish Louisiana. The facility operates, or has operated under the Title V air permits listed in Table B:

TABLE B

Permit No.	Permit Issue Date	Permit Expiration Date
0200-00004-V6	April 20, 2011	April 12, 2016
0200-00004-V6AA	November 7, 2011	-
0200-00004-V7	June 26, 2014	April 12, 2016
0200-00004-V8	January 7, 2016	January 7, 2021
0200-00004-V9	February 1, 2017	January 7, 2021

While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection, and subsequent file reviews conducted on April 25, 2019:

- C. On November 16, 2016, a review of opacity monitoring records revealed that there was no opacity record available for Boiler No. 1 (EQT 0001) for December 10, 2015. The failure to maintain daily opacity monitoring records is a violation of SR 3 of Title V Permit No. 0200-00004-V8, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The Respondent submitted a revised 2015 Second Semiannual Monitoring Report dated November 25, 2016, disclosing the deviation.

Lula-Westfield, L.L.C.

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- D. On November 16, 2016, the Gasoline Storage Tank (EQT 0008) was not equipped with a submerged fill pipe. The failure to equip EQT 0008 with a submerged fill pipe is a violation of SR 118 of Title V Permit No. 0200-00004-V8, LAC 33:III.2013.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In electronic correspondence dated July 11, 2018, the Respondent reported that a submerged fill pipe was installed on November 16, 2016.
- E. On November 16, 2016, the facility had on site an emergency generator, powered by a diesel engine, which was not listed in Title V Permit No. 0200-00004-V8. The failure to submit a permit application prior to construction, reconstruction, or modification of any emission source is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2). In electronic correspondence dated November 21, 2016, the Respondent disclosed that the emergency generator had not been operated since installation. In correspondence dated November 30, 2016, the Respondent submitted an application to modify Title V Permit No. 0200-00004-V8 to incorporate the diesel engine. Title V Permit No. 0200-00004-V9 was issued February 1, 2017, incorporating the engine as EQT 0015.
- F. On November 5, 2018, a review of the Respondent's boiler monitoring recordkeeping revealed no maintenance records were available for Boiler No. 7 (EQT 0007). The failure to maintain data recordkeeping by logbook continuously is a violation of SR 99 of Title V Permit No. 0200-00004-V9, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- G. On November 5, 2018, no maintenance records were available for the years 2017 and 2018 for the Diesel Firewater Pump engine (EQT 0016). The failure to maintain records is a violation of 40 CFR 63.6655 which language has been adopted as a Louisiana regulation in LAC 33:III.5122, SR 150 of Title V Permit No. 0200-00004-V9, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The Respondent reported in electronic correspondence dated November 16, 2018, that the records are now properly maintained.

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 violations described herein. Written comments may be filed regarding the violations 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.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violations. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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 in order to determine whether a penalty will be

Lula-Westfield, L.L.C.
AE-PP-17-00513
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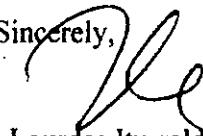
assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL 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 this 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.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violations 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" 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.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/MEB/meb
Alt ID Nos.: 0200-0006, 0200-00004

c: Lula-Westfield, L.L.C.
351 Louisiana Highway 999
Belle Rose, LA 70341

Lula-Westfield, L.L.C.
451 Louisiana Highway 1005
Paincourtville, LA 70391

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312**



**NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)**

Enforcement Tracking No.	AE-PP-17-00513	Contact Name	Mark E. Brown
Agency Interest (AI) Nos.	4182, 42344	Contact Phone No.	(225) 219-3782
Alternate ID Nos.	0200-00006, 0200-00004		
Respondent:	Lula-Westfield, L.L.C.	Facility Names:	Lula Raw Sugar Facility, Westfield Raw Sugar Facility
	c/o Thomas D. Daigle Agent for Service of Process	Physical Locations:	351 Louisiana Highway 999 451 Louisiana Highway 1005
	6118 Louisiana Highway 1	City, State, Zip:	Belle Rose, LA, 70341 Paincourtville, LA 70391
	Paincourtville, LA. 70391	Parish:	Assumption

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 AE-PP-17-00513, 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 AE-PP-17-00513, 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.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional) = \$ _____
- **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.

The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY AE-PP-17-00513, and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

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.

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
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Mark E. Brown



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY

Enforcement Tracking No.	AE-PP-21-00197	Certified Mail No.	7019 2970 0000 6037 2872
Agency Interest (AI) No.	42344	Contact Name	Courtney Tolbert
Alternate ID No.	0200-00004	Contact Phone No.	(225) 219-3347
Respondent:	Lula-Westfield, L.L.C.	Facility Name:	Westfield Raw Sugar Factory
	c/o Christopher D. Mattingly	Physical Location:	451 Louisiana Highway 1005
	Agent for Service of Process		
	214 Rue De Beauville	City, State, Zip:	Paincourtville, LA , 70391
Paincourtville, LA 70391	Parish:	Assumption	

This **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 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 raw sugar factory located at 451 Louisiana Highway 1005 in Paincourtville, Assumption Parish, Louisiana. The facility currently operates under Title V Air Permit No. 0200-00004-V10, issued on June 8, 2021, expiring June 8, 2026. The facility previously operated under Title V Air Permit No. 0200-00004-V9, issued on February 1, 2017.	
	Date of Violation	Description of Violation
II.	Inspection(s) 11/24/20	The Respondent failed to change the oil and oil filter on the Emergency Generator (EQT 0015) every 500 hours of operation or annually, whichever comes first. Specifically, the Respondent performed an oil change for EQT 0015 in 2018 and 2020, but failed to perform an annual oil change in 2019. Each failure to perform maintenance at the required frequency is a violation of 40 CFR 63.6603(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5311.A, Specific Requirement (SR) 121 of Title V Air Permit No. 0200-00004-V9, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). This violation was also reported in the 2020 Title V Revised Annual Compliance Certification and the 2020 Second Semiannual Revised Monitoring Report, both dated March 26, 2021.
III.	Inspection(s) 11/24/20	The Respondent failed to change the oil and oil filter on the Diesel Fire Water Pump (EQT 0016) every 500 hours of operation or annually, whichever comes first. Specifically, the Respondent performed an oil change for EQT 0016 in 2018 and 2020, but failed to perform an annual oil change in 2019. Each failure to perform maintenance at the required frequency is a violation of 40 CFR 63.6603(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5311.A, SR 138 of Title V Air Permit No. 0200-00004-V9, and LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). This violation was also reported in the 2020 Title V Revised Annual Compliance Certification and the 2020 Second Semiannual Revised Monitoring Report, both dated March 26, 2021.
IV.	Inspection(s) 11/24/20	The Respondent failed to record the scrubber cooling water pressure in the scrubber header piping by pressure instrument once every four (4) hours on December 12, 2019, for Boiler No. 1 (EQT 0001), Boiler No. 2 (EQT 0002), Boiler No. 3 (EQT 0003), Boiler No. 4 (EQT 0004), Boiler No. 5 (EQT 0005), Boiler No. 6 (EQT 0006), and Boiler No. 7 (EQT 0007). Specifically, on December 12, 2019, the Respondent failed to record the scrubber header pressure for two (2) consecutive four (4)-hour periods, from 4 AM – 8 AM and 8 AM – 12 PM. Each failure to record scrubber cooling water pressure at the required frequency is a violation of SRs 13, 28, 42, 57, 71, 85, and 110 of Title V Air Permit No. 0200-00004-V9, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). This violation was also reported in the 2020 Title V Revised Annual Compliance Certification and the 2020 Second Semiannual Revised Monitoring Report, both dated March 26, 2021.

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.
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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 Courtney Tolbert at (225) 219-3347 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 in order 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 violations 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 this 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.	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V.	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division:	Physical Address (if hand delivered):
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Courtney Tolbert	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.

- The Department assesses civil penalties based on LAC 33:1.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 "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" 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.

If you have questions or need more information, you may contact Courtney Tolbert at (225) 219-3347, or courtney.tolbert@la.gov.



 Celena Cage
 Assistant Secretary
 Office of Environmental Compliance

Date: February 23, 2022

Attachment

- Request to Settle

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312**



**NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)**

Enforcement Tracking No.	AE-PP-21-00197	Contact Name	Courtney Tolbert
Agency Interest (AI) No.	42344	Contact Phone No.	(225) 219-3347
Alternate ID No.	0200-00004		
Respondent:	Lula-Westfield, L.L.C.	Facility Name:	Westfield Raw Sugar Factory
	c/o Christopher D. Mattingly	Physical Location:	451 Louisiana Highway 1005
	Agent for Service of Process		
	214 Rue De Beauville	City, State, Zip:	Palncourtville, LA, 70391
Palncourtville, LA 70391	Parish:	Assumption	

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	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.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-21-00197 , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-21-00197 , 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"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • 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.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY AE-PP-21-00197 , and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

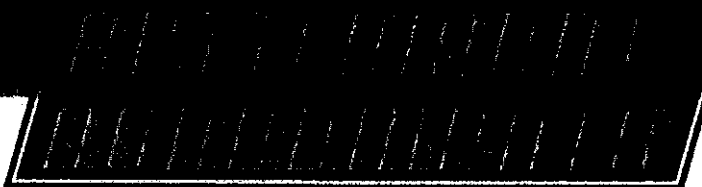
I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also 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.

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
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Courtney Tolbert

If you have questions or need more information, you may contact Courtney Tolbert at (225) 219-3347, or courtney.tolbert@la.gov.



WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

		NATURE AND GRAVITY OF THE VIOLATION		
		MAJOR	MODERATE	MINOR
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions.

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

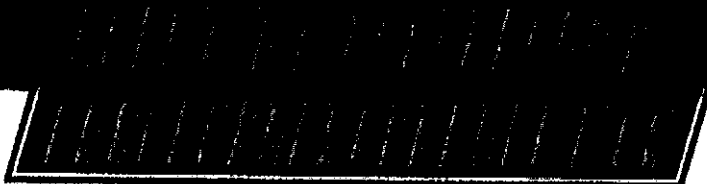
Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.





Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times (\text{Penalty Event Maximum} - \text{Penalty Event Minimum}))$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement. Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

- Settlement Offers searchable in EDMS using the following filters
Media: Air Quality, Function: Enforcement, Description: Settlement
- Settlement Agreements Enforcement Division's website
specific examples can be provided upon request
- Penalty Determination Method LAC 33:1 Chapter 7
- Beneficial Environmental Projects LAC 33:1 Chapter 25
FAQs
- Judicial Interest provided by the Louisiana State Bar Association

