

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

January 30, 2015

CERTIFIED MAIL (7004 2510 0006 3853 3568)
RETURN RECEIPT REQUESTED

ST. BERNARD PARISH GOVERNMENT
c/o David E. Peralta
Parish President
8201 West Judge Perez Drive
Chalmette, LA 70043

RE: COMPLIANCE ORDER
ENFORCEMENT TRACKING NO. WE-C-14-00654
AGENCY INTEREST NO. 19244

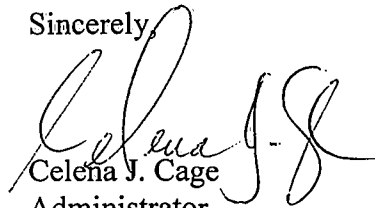
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **COMPLIANCE ORDER** is hereby served on **ST. BERNARD PARISH GOVERNMENT (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 **COMPLIANCE ORDER** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Andréa M. Huval at (225) 219-3090.

Sincerely,


Celeña J. Cage
Administrator
Enforcement Division

CJC/AMH/amh
Alt ID No. LA0040185
Attachment

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

IN THE MATTER OF

**ST. BERNARD PARISH GOVERNMENT
ST. BERNARD PARISH
ALT ID NO. LA0040185**

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ENFORCEMENT TRACKING NO.

WE-C-14-00654

AGENCY INTEREST NO.

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

19244

COMPLIANCE ORDER

The following **COMPLIANCE ORDER** is issued to **ST. BERNARD PARISH GOVERNMENT (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) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates a publicly owned treatment works which serves the Riverbend and Poydras areas, located at Riverbend Drive and Judge Perez Drive in Chalmette, St. Bernard Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0040185 effective on September 1, 2003, which expired on August 31, 2008. The Respondent submitted a LPDES renewal application on or about January 18, 2012. The facility is operating under Compliance Order WE-C-12-00741A, issued on April 15, 2013, which requires the facility to comply with the expired LPDES permit LA0040185 until the new permit is issued.

II.

On or about September 8, 2011, the Department issued **COMPLIANCE ORDER WE-C-10-01974** to the Respondent which was administratively amended on February 23, 2012 (**WE-C-10-01974A**). The Department received responses from the Respondent dated October 21, 2011, November

15, 2011, December 9, 2011, January 10, 2012, February 15, 2012, April 12, 2012, June 12, 2012, July 13, 2012, and November 27, 2012. **COMPLIANCE ORDERS WE-C-10-01974** and **WE-C-10-01974A** are final actions of the Department and not subject to further review. On or about November 1, 2012, the Department issued **COMPLIANCE ORDER WE-C-12-00741** to the Respondent which was administratively amended on April 15, 2013 (**WE-C-12-00741A**). The Department received responses from the Respondent dated January 16, 2013, April 5, 2013, June 11, 2013, June 27, 2013, October 1, 2013, November 12, 2013, January 16, 2014, April 2, 2014, July 15, 2014, and October 10, 2014. **COMPLIANCE ORDERS WE-C-12-00741** and **WE-C-10-01974A** are final actions of the Department and not subject to further review.

III.

An inspection conducted by the Department on or about March 5, 2014, revealed that the Respondent has not conducted the Municipal Water Pollution Prevention (MWPP) Annual Environmental Audit Report as required by their LPDES permit LA0040185 since 2005. Failure to conduct the MWPP Annual Environmental Audit Report is a violation of LPDES permit LA0040185 (Part II, Section B, and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

IV.

An inspection conducted by the Department on or about March 5, 2014, and a subsequent file review conducted on or about December 18, 2014, revealed the following exceedances of effluent limitations, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Date	Outfall	Parameter	Interim Permit Limit	Reported Value
4/2013	001	CBOD (Monthly Avg)	39 lbs/day	60 lbs/day
		Ammonia-Nitrogen (Monthly Average)	39 lbs/day	72.8 lb/day
5/2013	001	CBOD (Monthly Avg)	39 lbs/day	42 lbs/day
7/2013	001	TSS (Monthly Avg)	59 lbs/day	68 labs/day
		TSS (Monthly Avg)	15 mg/L	17 mg/L
8/2013	001	CBOD (Monthly Avg)	39 lbs/day	89 lbs/day
		CBOD (Monthly Avg)	10 mg/L	14 mg/L
		CBOD (Daily Max)	15 mg/L	16 mg/L
		TSS (Monthly Avg)	59 lbs/day	146 labs/day
		TSS (Monthly Avg)	15 mg/L	23 mg/L
		TSS (Daily Max)	23 mg/L	24 mg/L

9/2013	001	CBOD (Monthly Avg)	39 lbs/day	40 lbs/day
10/2013	001	CBOD (Monthly Avg)	39 lbs/day	88 lbs/day
		CBOD (Monthly Avg)	10 mg/L	18 mg/L
		CBOD (Daily Max)	15 mg/L	29 mg/L
12/2013	001	CBOD (Monthly Avg)	39 lbs/day	64 lbs/day
		CBOD (Monthly Avg)	10 mg/L	14 mg/L
		CBOD (Daily Max)	15 mg/L	22 mg/L
1/2014	001	CBOD (Monthly Avg)	39 lbs/day	43 lbs/day
		TSS (Monthly Avg)	59 lbs/day	179 lbs/day
		TSS (Monthly Avg)	15 mg/L	25 mg/L
		TSS (Daily Max)	23 mg/L	48 mg/L
2/2014	001	CBOD (Monthly Avg)	39 lbs/day	673 lbs/day
		CBOD (Monthly Avg)	10 mg/L	101 mg/L
		CBOD (Daily Max)	15 mg/L	101 mg/L
4/2014	001	CBOD (Monthly Avg)	39 lbs/day	63 lbs/day
		TSS (Monthly Avg)	59 lbs/day	94 lbs/day
		TSS (Monthly Avg)	15 mg/L	23 mg/L
		TSS (Daily Max)	23 mg/L	24 mg/L
6/2014	001	TSS (Daily Max)	23 mg/L	27 mg/L
7/2014	001	CBOD (Monthly Avg)	39 lbs/day	64 lbs/day
		CBOD (Monthly Avg)	10 mg/L	16 mg/L
		CBOD (Daily Max)	15 mg/L	30 mg/L
8/2014	001	CBOD (Monthly Avg)	39 lbs/day	No Report
		TSS (Monthly Avg)	59 lbs/day	No Report
		Flow (Monthly Avg)	Report	No Report
		Flow (Daily Max)	Report	No Report
		Ammonia-Nitrogen (Monthly Average)	39 lbs/day	No Report
9/2014	001	CBOD (Monthly Avg)	39 lbs/day	94.3 lbs/day
		CBOD (Monthly Avg)	10 mg/L	25 mg/L
		CBOD (Daily Max)	15 mg/L	30 mg/L

		Flow (Monthly Avg)	Report	No Report
		Flow (Daily Max)	Report	No Report

COMPLIANCE ORDER WE-C-10-01974A incorporated, from the original Compliance Order, the order to comply with all terms and conditions of expired LPDES permit LA0040185, which includes the permit limitations. Each exceedance of an interim permit limitation is a violation of **AMENDED COMPLIANCE ORDER WE-C-10-01974A, COMPLIANCE ORDER WE-C-12-00741**, LPDES permit LA0040185 (Part I, Interim Effluent Limitations and Monitoring Requirements; and Part 3, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

V.

An inspection conducted by the Department on or about March 5, 2014, revealed that the Respondent calculated the TSS Monthly Average Loading incorrectly. Specifically, the facility takes two samples per month for the monthly average. The facility is using the monthly average flow for all days of the month in the TSS loading calculation. The facility should be using the flow on the specific day the samples were taken then average the results of each day. Failure to calculate data using the correct methods is a violation of LPDES permit LA0040185 (Part III, Sections F.8 & 16), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

VI.

A file review conducted by the Department on or about January 26, 2015, revealed that the Respondent submitted a response to **AMENDED COMPLIANCE ORDER WE-C-10-01974A**, indicating that the facility has completed all activities associated with the compliance schedule with the exception of the final activity, to achieve compliance with revised wetland assimilation permit. To this end, the Respondent submitted a Sanitary Wastewater Discharge/Wetlands Assimilation Project Permit Application on or about January 18, 2012; the application was determined to be administratively complete on or about January 23, 2012. A meeting between the Respondent and the Department on or about November 24, 2014, revealed that the permit is in the final phases of drafting; the Respondent requested interim limits to discharge sanitary wastewater from a revised discharge location until the final permit could be issued.

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 Water Quality Regulations.

II.

To protect water quality, the Respondent is required to comply with the following:

- A) If the Respondent chooses to discharge to waters of the state, the following interim limitations and monitoring requirements shall apply:**

The point of discharge is hereby designated as Outfall 001. The discharge from this facility's operation shall be monitored at the point of discharge prior to entering waters of the state of Louisiana. The Respondent shall monitor and report all discharges from its facility under the following interim effluent limitations and monitoring requirements until a final LPDES permit is issued by the Department or until the Respondent is otherwise notified in writing by the Department.

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

In accordance with LAC 33:IX.1109.J.6 and the Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standard, Water Quality Management Plan, Volume 3, the Department may allow the discharge of the equivalent of secondarily treated effluent into wetlands for the purposes of nourishing and enhancing those wetlands. According to LAC 33:IX.5911.A & B, the effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment are 45 mg/l BOD₅ monthly average / 65 mg/l BOD₅ weekly average and 45 mg/l TSS monthly average / 65 mg/l TSS weekly average. However, Alternative State Requirement (ASR) provisions are contained in 40 CFR §133.105(d). The ASR provision allows States the flexibility to set permit limits above the maximum levels of 45 mg/l monthly average and 65 mg/l weekly average for BOD₅ and TSS from lagoons meeting certain requirements. EPA published the approved ASRs in 49 FR 37005 on September 20, 1984. An alternate TSS Limit of 90 mg/l monthly average was approved for the State of Louisiana. According to LAC 33:IX.711.D, with respect to BOD₅, treatment equivalent to secondary treatment for oxidation ponds is defined as 30 mg/l monthly average / 45 mg/l weekly average. Therefore, these limitations will be included in the permit.

OUTFALL 001 – Poydras-Verret Marsh Wetlands

Final effluent limits shall become effective upon the effective date of the permit and expire on the expiration date of the permit.

Effluent Characteristic	Monthly Avg.	Monthly Avg.	Weekly Avg.	Basis
	(lbs/day, unless otherwise stated)	(mg/l, unless otherwise stated)		

Effluent Characteristic	Monthly Avg.	Monthly Avg.	Weekly Avg.	Basis
BOD ₅ *	175	30	45	Limits are based on approved Treatment Equivalent to Secondary Treatment (LAC 33.IX.5911) and as allowed in the Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards, Water Quality Management Plan, Volume 3 for discharges of sanitary wastewater into an approved wetland.
TSS*	525	90	135	
Magnesium, Total	Report	Report	Report	In conjunction with the Wetland System Monitoring Requirements of the permit, "Report" for the listed metals has been proposed for this permit based on Best Professional Judgement (BPJ).
Lead, Total	Report	Report	Report	
Cadmium, Total	Report	Report	Report	
Chromium, Total	Report	Report	Report	
Copper, Total	Report	Report	Report	
Zinc, Total	Report	Report	Report	
Iron, Total	Report	Report	Report	
Nickel, Total	Report	Report	Report	
Silver, Total	Report	Report	Report	
Selenium, Total	Report	Report	Report	
Total Nitrogen**	Report	Report	Report	Values obtained will be used to calculate long-term wetland loading rates. (See Wetlands Reporting Form)
Total Phosphorus**	Report	Report	Report	

* The total yearly pollutant loading for BOD₅ and TSS shall be reported on the Annual Wetland Monitoring Reports.

** If loading rates exceed 15 g/m²/yr total nitrogen or 4 g/m²/yr total phosphorus, then either the loading rates must be reduced or the assimilation area must be increased.

Other Effluent Limitations:

1) Fecal Coliform

Limits of 200/100 ml (Monthly Average) and 400/100 ml (Weekly Average) are proposed as Fecal Coliform limits in the permit. These limits are based on the demonstrated ability of existing facilities to comply with these limits using present available technology and Best Professional Judgement in order to ensure that the water body standards are not exceeded.

2) pH

According to LAC 33:IX.3705.A.1., POTWs must treat to at least secondary levels. Therefore, in accordance with LAC 33:IX.5905.C., the pH shall not be less than 6.0 standard units nor greater than 9.0 standard units at any time.

3) Solids and Foam

There shall be no discharge of floating or settleable solids or visible foam in other than trace amounts, nor of free oil or other oil materials, nor of toxic materials in quantities such as to cause acute toxicity to aquatic organisms. Furthermore, there shall be no visible sheen or stains attributable to this discharge. (LAC 33:IX.1113.B.7)

The Respondent shall comply with the General Criteria for water quality standards listed in LAC 33:IX.1113.B.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge point(s) prior to mixing with other waters.

Laboratory procedures and analyses shall be conducted by a commercial laboratory that has been certified by the Department in accordance with the requirements set forth under LAC 33:I.Subpart 3, Chapters 49-55. A list of laboratories that have received accreditation is available on the Department's website located at: <http://www.deq.louisiana.gov/portal/DIVISIONS/PublicParticipationandPermitSupport/LouisianaLaboratoryAccreditationProgram/AccreditedLaboratories.aspx>. Questions concerning the program may be directed to (225) 219-3247.

Samples and measurements shall be representative of the volume and nature of the discharge and collected and analyzed according to the requirements of LAC 33:IX.2701.J. Monitoring results from all sample analyses shall be reported on Discharge Monitoring Reports (DMRs) (EPA Form 3320-1) and forwarded to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Permit Compliance Unit

DMRs shall be submitted no later than the twenty-eighth (28) day of the month following the monitoring period specified in this **COMPLIANCE ORDER**. The monitoring period shall begin on the first day of the month following receipt of **COMPLIANCE ORDER WE-C-14-00654**. The Respondent shall continue the submission of DMRs by the twenty-eighth (28) day of the month following each monitoring period until the Respondent is authorized under a LPDES permit or until otherwise notified in writing by this Department. **COMPLIANCE ORDER WE-C-14-00654, AI# 19244, AND LA0040185** should be referenced on all DMRs submitted in accordance with this **COMPLIANCE ORDER**. Instructions for the proper completion of DMRs and examples of properly completed DMRs may be found on the Department's website at <http://www.deq.louisiana.gov/portal/DIVISIONS/Enforcement/WaterEnforcement.aspx>.

Blank DMR forms may also be downloaded from this website.

The Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of these interim limitations and monitoring requirements. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up auxiliary facilities or similar systems, which are installed by a facility only when the operation is necessary to achieve compliance with the conditions of these interim limitations and monitoring requirements.

These interim limitations and monitoring requirements do not convey any property rights of any sort.

If the Weekly Average limitation on any parameter is exceeded, the Respondent shall report said exceedance(s) in writing to the Office of Environmental Compliance, within five (5) working days after becoming aware of the violations. **COMPLIANCE ORDER WE-C-14-00654, AI# 19244, and LA0040185** should be referenced on all such reports submitted in accordance with this **COMPLIANCE ORDER**. The report should include the date, time, and duration of the noncompliance; the details of the circumstances and events leading to the noncompliance; the corrective actions taken or to be taken to correct the noncompliance and if not corrected, the anticipated time the noncompliance is expected to continue; the procedures or measures taken or to be taken to prevent recurrence of the noncompliance; and a determination of whether or not the noncompliance was preventable.

For sanitary treatment plants, the plans and specifications must be approved by the Louisiana Department of Health and Hospitals, Office of Public Health, P.O. Box 4489, Baton Rouge, Louisiana 70821, (225) 342-7499. Additionally, any discharge to a highway ditch, cross ditch, or right-of-way requires approval from the Louisiana Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804-9245, (225)379-1301.

- B) If the Respondent does not choose to discharge to waters of the state**, the Respondent shall, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to waters of the state.

III.

To notify the Enforcement Division within fifteen (15) days of receipt of a final LPDES permit issued by the Department.

IV.

To comply with expired LPDES permit LA0040185 (Part II, Section B) by conducting the MWPP Annual Environmental Audit Report as directed until the new permit is issued. Although the Respondent has not conducted the MWPP Annual Environmental Audit Report since 2005, an Audit Report shall be conducted and submitted for the 2014 audit period, which begins September 1, 2014,

and ends August 30, 2015. The Audit Report completion date is listed in expired LPDES permit LA0040185 as three (3) months from Audit period ending date.

V.

To calculate TSS Monthly Average loading limits per the EPA's NPDES Reporting Requirements Handbook, and report these calculations on future DMRs.

VI.

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: Andréa M. Huval
Re: Enforcement Tracking No. WE-C-14-00654
Agency Interest No. 19244

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. WE-C-14-00654
Agency Interest No. 19244

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 Department's Rules of Procedure. 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.

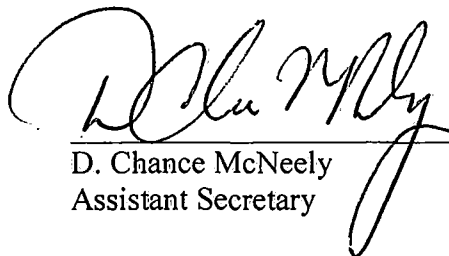
VII.

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.

VIII.

This **COMPLIANCE ORDER** is effective upon receipt.

Baton Rouge, Louisiana, this 30 day of January, 2015



D. Chance McNeely
Assistant Secretary

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: Andréa M. Huval