

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-HE-09-0052
CLEAN HARBORS BATON ROUGE, L.L.C.	*	
	*	Enforcement Tracking No.
AI # 1516	*	HE-CN-08-0178
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Clean Harbors Baton Rouge, L.L.C. (Respondent) and the Department of Environmental Quality (Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (Act).

I

Respondent is a Limited Liability Corporation that operates a Hazardous Waste Treatment, Storage and Disposal Facility (Facility) at 13351 Scenic Highway in Baton Rouge, East Baton Rouge Parish, Louisiana.

II

On July 11, 2008, the Department issued Respondent a Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement No. HE-CN-08-0178, which was based upon the following findings of fact:

The Respondent owns and/or operates Clean Harbors Baton Rouge, L.L.C. (the Site) located at 13351 Scenic Highway in Baton Rouge, East Baton Rouge Parish, Louisiana. The facility has notified the Department as a large quantity generator of hazardous waste and as a treatment, storage,

and disposal facility which operates under EPA facility identification number LAD010395127.

On or about October 19, 2007, and October 22, 2007, inspections were conducted by a representative of the Department which revealed the following violations:

- A. The Respondent failed to line the secondary containment for the leachate tank with a liner capable of preventing lateral as well as vertical migrations of the waste, in violation of LAC 33:V.1907.E.1.d. Specifically, the secondary containment was not lined with an impervious coating to prevent the migration of the waste through the concrete.
- B. The Respondent failed to maintain the integrity and effectiveness of the final cover of landfill 904, in violation of LAC 33:V.2521.B.1. Specifically, erosion to the cap of landfill 904 was observed.
- C. The Respondent failed to provide notification for closure of tanks of hazardous waste within one (1) year after the date on which they received the most recent volume of hazardous waste and failed to request an extension to the one (1) year limit, in violation of LAC 33:V.3511.D.2.a. Specifically, no closure notification was provided for tanks TK-7001 and TK-7002 within a year of receiving the most recent volume of waste.
- D. The Respondent failed to maintain tank T-7001 and its equipment in good condition, in violation of LAC 33:V.309.E and Permit Condition II.E.6. Specifically, the metal liner of tank T-7001 had lifted out of the ground leaving it unfit for use.

III

In response to the CONOPP Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHT THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$8,500.00), of which Two Thousand One Hundred Fifteen and No/100 Dollars (\$2,115.00) 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), the CONOPP and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may

be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This Settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted 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.

CLEAN HARBORS BATON ROUGE, L.L.C.

BY: RaeFord Craig Lackey, Esq.
(Signature)

RAEFORD CRAIG LACKEY, Esq.
(Print)

TITLE: VICE PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 8th day of July, 20 10, at Richland County, South Carolina

Jacqueline A. Cox
NOTARY PUBLIC (ID # NIA)

Jacqueline A. Cox
My commission expires June 2, 2015

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 12th day of October, 20 10, at Baton Rouge, Louisiana.

Christopher A. Redcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Redcliff
(Print)

Approved: [Signature]
Paul D. Miller, P.E., Assistant Secretary