STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-SE-11-0010**
DAVID CLARK	*	
	*	**Enforcement Tracking No.**
AI # 132756	*	**SE-CN-08-0003**
	*	**SE-PP-08-0532**
	*	**SE-PP-10-00479**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between David Clark ("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 an individual who owned and/or operated a temporary debris disposal and burn site facility located off South Smokey Cove Road (the Site), in Singer, Beauregard Parish, Louisiana ("the Facility").

II

On April 7, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-08-0003, which was based upon the following findings of fact:

The Respondent owns property located off South Smokey Cove Road (the Site), in Singer, Beauregard Parish, Louisiana. The Department issued an Emergency Order granting temporary authorization for this property to act as a Hurricane Rita debris disposal and burn site.

This authorization expired on January 25, 2007. The facility was ordered to close within sixty (60) days after this authorization expired. The Department issued Order to Close OC-0353 to the Respondent on May 8, 2007.

On or about September 19, 2007, and November 30, 2007, inspections were conducted by a representative of the Department which revealed the following violation:

> The Respondent failed to close the Site, in violation of LAC 33:VII.901 and Order to Close OC-0353. Specifically, wood waste and vegetative waste remains at the Site.

On or about December 8, 2008, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. SE-PP-08-0532, which was based upon the following findings of fact:

On or about July 8, 2008, an inspection of South Smokey Cove Road Burn Site, owned and/or operated by David Clark (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste Regulations. The facility is located off South Smokey Cove Road in Singer, Beauregard Parish, Louisiana.

The Department issued Consolidated Compliance Order and Notice of Potential Penalty SE-CN-08-0003 to the Respondent on April 7, 2008.

The following violation was noted during the course of the inspection:

> The Respondent failed to close the Site, in violation of LAC 33:VII.901, Consolidated Compliance Order and Notice of Potential Penalty SE-CN-08-0003, and Order to Close OC-0353. Specifically, wood waste and vegetative waste remains at the Site.

On or about August 27, 2010, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. SE-PP-10-00479, which was based upon the following findings of fact:

On or about February 18, 2010, an inspection of South Smokey Cove Road #2, owned and/or operated by David Clark (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste Regulations. The facility is located at S. Smokey road in Singer, Beauregard parish, Louisiana.

The Department issued order to Close OC-0353 to the respondent on May 8, 2007.

Consolidated Compliance Order & Notice of Potential Penalty SE-CN-08-0003 was issued to the Respondent on April 7, 2008. Notice of Potential Penalty SE-PP-08-0532 was issued to the Respondent on December 8, 2008.

The following violation was noted during the course of the inspection:

> The Respondent failed to close the Site, in violation of LAC 33:VII.901.A, Order to Close OC-0353, and Consolidated Compliance Order & Notice of Potential Penalty SE-CN-08-0003. Specifically, wood waste and vegetative waste remains at the Site.

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 AND NO/100 DOLLARS ($3,000.00), which 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, 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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Beauregard 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.

IX

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).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

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.

DAVID CLARK

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary