

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-MM-11-0033
DONALD FARMS, INC.	*	
	*	Enforcement Tracking No.
AI # 149858	*	WE-C-07-0616
	*	MM-CN-08-0059
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	Docket No. 2010-3605-EQ
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	(for MM-CN-08-0059 only)

SETTLEMENT

The following Settlement is hereby agreed to between Donald Farms, Inc. (“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 corporation that owns and/or operates an alligator farm and processing facility located in West Monroe, Ouachita Parish, Louisiana (“the Facility”).

II

On March 20, 2008, the Department issued to Respondent a Compliance Order, Enforcement No. WE-C-07-0616, which was based upon the following findings of fact:

The Respondent owns and/or operates an alligator farm located at 907 Cheniere-Drew Road in West Monroe, Ouachita Parish, Louisiana. This facility currently has a three cell oxidation pond system for the treatment of alligator wash water and process wastewater from processing alligators.

The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority from the Department to discharge waste and/or other substances to the waters of the state.

On or about October 1, 2007, an inspection conducted by the Department of this facility revealed that the Respondent did cause and/or allow the unauthorized discharge of wastewater from the alligator farm's wastewater treatment ponds to local drainage, thence into an unnamed branch of Cheniere Creek in the Ouachita River Basin, stream segment 080802. This unauthorized discharge is in violation of La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2501.A.

On January 28, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-08-0059, which was based upon the following findings of fact:

The Respondent owns and/or operates an alligator farm and processing facility located at 907 Cheniere-Drew Road in West Monroe, Ouachita Parish, Louisiana. The facility currently has a three-cell oxidation pond system for the treatment of alligator wash water and process wastewater from processing alligators. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit to discharge wastewater to waters of the state.

On or about October 1, 2007, an inspection conducted by the Department of this facility revealed that the Respondent did cause and/or allow the unauthorized discharge of wastewater from the alligator farm's wastewater treatment ponds to local drainage, thence into an unnamed branch of Cheniere Creek in the Ouachita River Basin, stream segment 080802. This unauthorized discharge of wastewater is in violation of La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2501.A., La. R.S. 30:2075, and LAC 33:IX.501.D.

The Respondent was issued Compliance Order WE-C-07-0616 on or about March 20, 2008. The Respondent was ordered to cease any and all unauthorized discharges and submit a completed LPDES Notice of Intent (NOI) or appropriate LPDES permit application within thirty (30) days if the Respondent chose to continue its discharge. In addition, interim effluent limitations and monitoring requirements were set forth in the Compliance order in the event of a discharge. Compliance Order WE-C-07-0616 was not appealed and is not subject to further review.

On or about February 1, 2008, the Department received an LPDES permit application from the Respondent to discharge wastewater. The Respondent submitted a completed LPDES Industrial Wastewater Discharge Permit Application, SCC-2, to the Department dated September 24, 2008, to address all outfalls and activities at the facility.

On or about June 20, 2008, the Department conducted an inspection to verify compliance with Compliance Order WE-C-07-0616 and the Water Quality Regulations. The following violations were noted during the inspection:

- A. The Respondent failed to perform analytical sampling for the month of May 2008 in violation of Compliance Order WE-C-07-0616, La. R. S. 30:2076 (A) (3), and LAC 33:IX.501.A.
- B. The Respondent was openly burning regulated solid waste, in violation of LAC 33:VII.315.M. Specifically, the Respondent was burning paper feed bags in two (2) open-top 55-gallon containers.
- C. The Respondent failed to submit an accurate application describing all of the activities that take place at the facility and the potential pollutants that may be discharged. Specifically, the outfall from the incubator house was omitted from the application as well as details of the hides and meat processing

activities. The failure to submit a complete and accurate application is in violation of Compliance Order WE-C-07-0616, La. R. S. 30:2076 (A) (3), and LAC 33:IX.501.A, and LAC 33:IX.2501.A.

A file review conducted by the Department on or about December 10, 2008, revealed the following permit exceedances, as reported by the Respondent on DMRs:

Date	Outfall	Parameter	Permit Limit	Sample Value
6/30/08	001	CBOD ₅ Monthly Average	25 mg/L	27.0 mg/L
6/30/08	001	TSS Monthly Average	90 mg/L	123 mg/L
6/30/08	001	Fecal Coliform Daily Max	400 col/100 ml	16,173,333 col/100 ml
6/30/08	001	Ammonia Nitrogen Daily Max	30 mg/L	96.2 mg/L
7/31/08	001	Fecal Coliform Daily Max	400 col/100 ml	482,000 col/100 ml
7/31/08	001	Ammonia Nitrogen Daily Max	30 mg/L	154.0 mg/L
8/31/08	001	CBOD ₅ Daily Max	40 mg/L	234.0 mg/L
8/31/08	001	TSS Daily Max	135 mg/L	430 mg/L
8/31/08	001	Fecal Coliform Daily Max	400 col/100 ml	520,000 col/100 ml
8/31/08	001	Ammonia Nitrogen Daily Max	30 mg/L	122.0 mg/L

Each exceedance of permit effluent limitations constitutes a violation of Consolidated Compliance Order WE-C-07-0616, La. R.S. 30:2075, La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, 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 TWENTY THOUSAND SEVEN HUNDRED TWENTY AND NO/100 DOLLARS (\$20,720.00), of which One Thousand Five Hundred Fifty-Five and 22/100 Dollars (\$1,555.22) 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 Compliance Order, 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.

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 La. 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 Ouachita 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.

DONALD FARMS, INC.

BY: *Jeff Donald*
(Signature)

Jeff Donald
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 21 day of September, 20 11, at 11:30 AM.

Wanda Inez Kinser
NOTARY PUBLIC (ID # 16541)

Wanda Inez Kinser
Notary Public, State of Louisiana
No. 16541
Commission expires: With Life

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 5th day of January, 20 12, at Baton Rouge, Louisiana.

Delana Key
NOTARY PUBLIC (ID # 20590)
Bar Roll #

Life Commission

Delana King
(stamped or printed)

Approved: *Cheryl*
Cheryl Sonnier Nolan, Assistant Secretary