

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**H.J.H. LAND DEVELOPMENT, L.L.C.
AI # 83638**

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

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* **Enforcement Tracking No.**
* **WE-P-03-0160**
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* **Docket No. 2003-7656-EQ**
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SETTLEMENT

The following Settlement is hereby agreed to between H.J.H. Land Development, 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 Corporation who owns and/or operates a sewage treatment plant facility located at 3929 Louisiana Highway 59 in Mandeville, St. Tammany Parish, Louisiana (“the Facility”).

II

On June 30, 2003, the Department issued a Penalty Assessment, NO.WE-P-03-0160, in the amount of THREE THOUSAND SEVEN HUNDRED NINE AND 11/100 DOLLARS (\$3,709.11) to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates a sewage treatment plant at 3929 La. Hwy. 59 in Mandeville, St. Tammany Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG530000 on or

about April 18, 2000, and was specifically assigned permit number LAG531061. Under the terms and conditions of LPDES Permit LAG531061, the Respondent is authorized to discharge treated sanitary wastewater to local drainage, thence into Bayou Chinchuba, both waters of the state.

An inspection conducted by employees of the Department on or about June 14, 2001, revealed the Respondent was not properly operating and maintaining its facility. Specifically, the Respondent failed to provide chlorine tablets in the chlorine contact chamber of its sewage treatment plant. This is a violation of LPDES permit LAG531061 (Part III, Section A.2. and B.3.), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.E, and LAC33:IX.2767.A.5.

An inspection conducted by the Department on or about June 14, 2001, and a subsequent file review conducted on or about December 5, 2001, revealed that the Respondent failed to submit Discharge Monitoring Reports (DMRs) as required by LPDES permit LAG531061 for the monitoring periods of 2000 and 2001. Each failure to submit DMRs is a violation of LPDES permit LAG531061 (Part I, Section C.6, and Part III, Sections A.2 and D.4) La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.L.4, and LAC 33:IX.2767.A.5.

An inspection conducted by the Department on or about June 14, 2001, and a subsequent file review conducted on or about December 5, 2001, revealed the Respondent was not sampling its effluent as required by LPDES permit LAG531061. Specifically, the Respondent failed to conduct sampling for the monitoring periods of 2000 and 2001. Each failure to sample the effluent is a violation of LPDES permit LAG531061 (Part I, Section B; Part III, Sections A.2. and C.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2767.A.5.

The Respondent submitted revised Discharge Monitoring Reports (DMRs) to the Department during a meeting on or about October 23, 2003. The signed DMRs for the 2002 and 2003 reporting periods revealed the following excursions to LPDES permit LAG531061:

Date	Outfall	Parameter	Limit	Result
2002	001	Fecal Coliform	400 col./100 mL (Weekly Avg.)	>60,000 col./100 mL
2002	001	BOD ₅	45 mg/L (Weekly Avg)	290 mg/L
2002	001	TSS	45 mg/L (Weekly Avg)	152 mg/L

Each excursion constitutes a violation of LPDES permit LAG531061 (Part III, Section A.2), 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.2355.A.

The Respondent was issued Warning Letter WE-L-01-0536 on or about December 17, 2001, for areas of concern noted during the inspection by the Department on or about June 14, 2001. The warning letter stated that the Respondent should take any and all steps to ensure compliance with all environmental regulations at the facility.

The Respondent was issued Consolidated Compliance Order & Notice Of Potential Penalty, No. WE-CN-01-0536, on or about March 5, 2002, for failing to maintain records (Discharge Monitoring Reports/laboratory data) on-site, failing to properly operate and maintain its sewage treatment plant, failing to submit Discharge Monitoring Reports, and failing to sample the effluent from the sewage treatment plant. The Compliance Order portion of the Order required the Respondent:

- A) to immediately take any and all steps necessary to achieve and maintain compliance with permit limitations and conditions contained in LPDES permit LAG531061;
- B) to submit properly completed DMRs to the Enforcement Division for the 2000 and 2001 monitoring periods (the Respondent was also ordered to submit a letter

identifying any monitoring period for which no sampling was performed); and
C) to submit a written report to include the circumstances of the cited violations.

Consolidated Compliance Order & Notice Of Potential Penalty, No. WE-CN-01-0536, is a final action of the Department and is not subject to further administrative review.

On or about March 18, 2002, the Respondent submitted a written response to Consolidated Compliance Order & Notice Of Potential Penalty, No. WE-CN-01-0536. In the letter, the Respondent stated that no sampling was performed for the 2000 and 2001 monitoring periods. The Respondent stated that sampling was now being performed and a logbook was now being kept regarding the operation and maintenance of the sewage treatment plant.

III

In response to the Penalty Assessment, 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 TWO THOUSAND FOUR HUNDRED AND NO/100 (\$2,400.00) of which TWO HUNDRED FIFTEEN AND 11/100 (\$215.11) which represents DEQ'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 DEQ 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 Penalty Assessment, 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 St. Tammany Parish. 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 a proof-of-publication affidavit 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. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

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/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

H.J.H. LAND DEVELOPMENT, L.L.C.

Alison M. Chaffin

BY: 

(Signature)

Peter W Hanson

(Printed)

Heather J. Aucoin

TITLE: Manager

etc.

THUS DONE AND SIGNED in duplicate original before me this 8th day of

December

, 20 03,

at COVINGTON, LA.


NOTARY PUBLIC

WITNESSES:

STATE OF LOUISIANA

Hall Bohlinger, Secretary

Department of Environmental Quality

Christopher M. Hatch
Holly Smith

BY: 

R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 29 day of

April

, 20 04,

at Baton Rouge, Louisiana.


NOTARY PUBLIC

Approved: R. Bruce Hammatt

R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

RECEIVED
APR 21 2004
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

April 19, 2004

Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
HJH Land Development, LLC
WE-P-03-0160; AI #83638

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw