STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-MM-14-0035**
JB ENTERPRISES LEASING, L.L.C.	*	
	*	**Enforcement Tracking No.**
AI # 180627	*	**MM-CN-12-00279**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	**Docket No. 2013-11896-EQ**
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between JB Enterprises Leasing, 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 limited liability company that owns and/or operates a facility located in Washington Parish, Louisiana ("the Facility").

II

On May 8, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. MM-CN-12-00279, which was based upon the following findings of fact:

"The Respondent owns and/or operates a company contracted by the Washington Parish School Board to perform demolition activities at the former Pine School (the Site) located at 27164 Louisiana Highway 62 in Pine, Washington Parish, Louisiana. The Respondent does not have a permit and/or authority from the Department to operate a solid waste disposal facility.

On or about December 6, 2011, the Department conducted an inspection of the Site to determine the Respondent's degree of compliance with the Act and the Air Quality Regulations. The inspector collected samples from various debris piles at the Site which were found to contain regulated asbestos-containing material (RACM). A subsequent file review was conducted on or about March 26, 2012. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection and/or subsequent file review:

A. The Respondent failed to provide the Department with a typed notice of intention to demolish or renovate using the latest version of the Form AAC-2, Notification of Demolition and Renovation. This form is due to the Department ten (10) working days prior to the demolition or renovation activity. The Respondent's failure to complete and submit Form AAC-2 is a violation of LAC 33:III.5151.F.2.a and La. R.S. 30:2057(A)(2).

B. An individual or company contracted to perform a demolition or renovation activity which disturbs RACM must be recognized by the Louisiana State Licensing Board for Contractors (LSLBC) to perform asbestos abatement. The Respondent is not licensed by the LSLBC to perform asbestos abatement. The Respondent failed to become a licensed individual or company to perform asbestos abatement prior to performing the demolition or renovation activity. This is a violation of LAC 33:III.5151.F.1.f and La. R.S. 30:2057(A)(2).

C. The Respondent failed to thoroughly inspect the affected facility or part of the facility where a demolition or renovation activity will occur for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material (ACM) prior to demolition or renovation activity. This is a violation of LAC 33:III.5151.F.1 and La. R.S. 30:2057(A)(2).

D. The Respondent failed to remove all RACM from the facility prior to demolition activities. This is a violation of LAC 33:III.5151.F.3.a and La. R.S. 30:2057(A)(2).

E. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or authority from the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, solid waste consisting of construction and demolition (C/D) debris was deposited at the Site.

F. The Respondent was engaged in open burning of regulated solid waste, in violation of LAC 33:VII.315.M. Specifically, piles of burned C/D waste were found at the Site."

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 TWENTY THOUSAND AND NO/100 DOLLARS ($20,000.00), of which Six Hundred Five and 14/100 Dollars ($605.14) 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 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 Washington 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.

JB ENTERPRISES LEASING, L.L.C.

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