

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KARA WITTINGTON

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

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* **Tracking No.**
* **SE-P-01-0030**
* **AGENCY INTEREST NO.**
* **30999**

SETTLEMENT

The following Settlement is hereby agreed to between KARA WITTINGTON (Respondent) and the Department of Environmental Quality, (Department), under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq., (the "Act").

I

Respondent owns and operates a solid waste disposal site ("the Site") located at 14113 Wittington Lane in Natalbany, Tangipahoa Parish, Louisiana at or near Section 3, Township 6 South, Range 7 East.

II

The allegations which form the basis of the enforcement action(s) are:

On or about May 26, 1989 a representative of the Department performed an inspection of the Site. As a result of that inspection, Compliance Order S-C-89-0122 was issued on or about July 25, 1989 to the Respondent. In that action, the Respondent was ordered to cease depositing solid waste at the Site, and to remove all solid waste within 60 days to a permitted facility and to notify the Department of any activity associated with collecting and transporting solid waste. No request for hearing was ever filed by the Respondent, and Compliance Order S-C-89-0122 became a final order.

On or about April 19, 1999, April 14, 2000, and June 13, 2000, representatives from the

Department inspected the Respondent's Site revealing the following violations:

- A. Respondent disposed of solid waste without a permit or other authorization from the Department, in violation of LAC 33:VII.315.A & E, Compliance Order S-C-89-0122, LAC 33:VII.901 and La. R.S. 30:2155; and
- B. Respondent burned solid waste without a permit or other authorization from the Department, in violation of LAC 33:VII.315.Q and La. R.S. 30:2155; and
- C. Respondent failed to notify the Department in writing of the activity of collecting/transporting solid waste, in violation of LAC 33:VII.503.A.1, Compliance Order S-C-89-0122, LAC 33:VII.901 and La. R.S. 30:2155.

Based on the aforementioned inspections, the Department issued Consolidated Compliance Order & Notice of Potential Penalty (CONOPP) SE-CN-99-0281 on November 6, 2000. No request for hearing was ever filed by the Respondent, and the CONOPP became a final order.

III

On August 30, 2001, a Penalty Assessment in the amount of \$ 3,191.42 was issued to Respondent and, in response thereto, Respondent made a timely request for a hearing.

IV

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

V

Nonetheless, the 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 \$ 1,000.00 in settlement of the claims set forth in this agreement.

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 the 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.

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 Tangipahoa 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. Payments are to be made payable by check to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 82231, Baton Rouge, Louisiana, 70884-2231.

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:

[Signature]

Daniel Howard

RESPONDENT

BY: [Signature]

NAME: KARA Whittington

TITLE: Whittington Trucking Company

THUS DONE AND SIGNED before me this 11th day of October, 2002, at Hannou La.

[Signature]
NOTARY PUBLIC

WITNESSES:

Holly Smith

[Signature]

STATE OF LOUISIANA
Hall Bohlinger, Secretary
Dept. of Environmental Quality

BY: [Signature]
R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED before me this 9th day of January, 2003, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC

Approved: [Signature]
R. Bruce Hammatt, Assistant Secretary

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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General,
under the provisions of La. R.S. 30:2050.7.

RICHARD P. IEYOUB
ATTORNEY GENERAL

DATED: 02/20, 2002

BY: 
ASSISTANT ATTORNEY GENERAL