STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-MM-16-0021**
LMK BATON ROUGE CONSTRUCTION, LLC	*	
and THE STANDARD AT BATON ROUGE LLC	*	**Enforcement Tracking Nos.**
AI # 191043 and 190227	*	**MM-CN-15-01008**
	*	**MM-CN-15-01009**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between LMK Baton Rouge Construction, LLC and The Standard at Baton Rouge ("Respondents") 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

Respondents are limited liability companies that own and/or operate construction facilities located in East Baton Rouge Parish, Louisiana ("the Facilities").

II

On September 23, 2015, the Department issued to Respondent (LMK Baton Rouge Construction, LLC) a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **MM-CN-15-01008**, which was based upon the following findings of fact:

"The Respondent owns and/or operates a construction site, located on Aster Street, Baton Rouge, East Baton Rouge Parish, Louisiana (the Site). Under the terms and conditions of LPDES Permit LAR10K028, the Respondent is permitted to discharge storm water associated with construction activities into Bayou Fountain, all waters of the state.

An onsite inspection conducted on June 12, 2015, in response to complaints T164048 & T164237 revealed the following:

A. The Notice of Intent was not posted at the site entrance nor anywhere else onsite. An electronic copy was provided to the inspector. The general permit was not available at time of inspection, however an authorization letter was provided during time of inspection.

B. Storm water pollution prevention plan (SWPPP), inspections and training records were not provided during time of inspection. SWPPP was later submitted to the inspector on June 16, 2015, however the inspector requested SWPPP be submitted no later than 12:00 pm on June 15, 2015.

C. Streets (Aster, Alaska, West Chimes, Iowa) surrounding the development were very muddy, storm water drains were not protected and storm water was being pumped directly from the construction site into a storm drain on Alaska Street.

D. There was no silt fencing installed around the construction site which resulted in runoff entering the streets and into the storm drains.

E. Several piles of dirt and sand were observed with no protection provided from rain water which resulted in the discharge of pollutants in runoff.

F. The Respondent failed to implement corrective actions within seven (7) days of noting areas of concerns during routine storm water inspections.

Failure to implement any portion or portions of a Storm Water Pollution Prevention Plan is in violation of LPDES Permit LAR10K028, La.R.S.30:2076(A)(3), and LAC 33:IX.2701.A.

A follow up visit conducted on July 22, 2015, revealed the following:

A. Lack of sufficient controls to minimize or prevent sediment from entering surrounding streets and storm water collection systems. Since the previous inspection on June 12, 2015, the Respondent had installed storm water drain inlet protection but it was not being maintained throughout the site.

B. Piles of dirt, sand and mulch have been deposited on the sidewalks and streets around the site.

C. Silt fencing had been improperly installed allowing sediment runoff onto neighboring lots, streets and storm drains.

Failure to implement any portion or portions of a Storm Water Pollution Prevention Plan is in violation of LPDES Permit LAR10K028, La.R.S.30:2076(A)(3), and LAC 33:IX.2701.A.

A file review conducted on August 19, 2015 revealed the following:

The Respondent does not have a permit and/or authority from the Department to process and/or dispose of solid waste at the Site. The Department issued EPA Identification Number LAR 000086843.

On or about June 12, 2015, and July 22, 2015, the Department inspected the Respondent's property and noted the following violations:

A. The Respondent caused and/or allowed the disposal of regulated solid waste at the Site without a permit and/or authority from the Department, in violation of La. R.S. 30:2155, and LAC 33:VII.315.C. Specifically, unauthorized waste disposed on the corner of Aster Street and Iowa Street included construction/demolition debris. This violation was noted during the June 12, and July 22 inspections.

B. The Respondent failed to clean up and properly manage spilled used oil, in violation of LAC 33:V.4013.E. Specifically, during the June 12 inspection, hydraulic oil was noted

spilled on the ground under a pump located on Aster Street. The spill was not noted in the July 22 inspection."

On September 23, 2015, the Department issued to Respondent (The Standard of Baton Rouge, LLC) a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **MM-CN-15-01009**, which was based upon the following findings of fact:

"The Respondent owns and/or operates a construction site, located on Aster Street, Baton Rouge, East Baton Rouge Parish, Louisiana (the Site). Under the terms and conditions of LPDES Permit LAR10K028, the Respondent is permitted to discharge storm water associated with construction activities into Bayou Fountain, all waters of the state.

An onsite inspection conducted on June 12, 2015, in response to complaints T164048 & T164237 revealed the following:

A. The Notice of Intent was not posted at the site entrance nor anywhere else onsite. An electronic copy was provided to the inspector. The general permit was not available at time of inspection, however an authorization letter was provided during time of inspection.

B. Storm water pollution prevention plan (SWPPP), inspections and training records were not provided during time of inspection. SWPPP was later submitted to the inspector on June 16, 2015, however the inspector requested SWPPP be submitted no later than 12:00 pm on June 15, 2015.

C. Streets (Aster, Alaska, West Chimes, Iowa) surrounding the development were very muddy, storm water drains were not protected and storm water was being pumped directly from the construction site into a storm drain on Alaska Street.

D. There was no silt fencing installed around the construction site which resulted in runoff entering the streets and into the storm drains.

E. Several piles of dirt and sand were observed with no protection provided from rain water which resulted in the discharge of pollutants in runoff.

F. The Respondent failed to implement corrective action within seven (7) days of noting areas of concerns during routine storm water inspections.

Failure to implement any portion or portions of a Storm Water Pollution Prevention Plan is in violation of LPDES Permit LAR10J906, La.R.S.30:2076(A)(3), and LAC 33:IX.2701.A.

A follow up visit conducted on July 22, 2015, revealed the following:

A. Lack of sufficient controls to minimize or prevent sediment from entering surrounding streets and storm water collection systems. Since the previous inspection on June 12, 2015, the Respondent had installed storm water drain inlet protection but it was not being maintained throughout the site.

B. Piles of dirt, sand and mulch have been deposited on the sidewalks and streets around the site.

C. Silt fencing had been improperly installed allowing sediment runoff onto neighboring lots, streets and storm drains.

Failure to implement any portion or portions of a Storm Water Pollution Prevention Plan is in violation of LPDES Permit LAR10J906, La.R.S.30:2076(A)(3), and LAC 33:IX.2701.A.

A file review on August 19, 2015 revealed the Respondent does not have a permit and/or authority from the Department to process and/or dispose of solid waste at the Site. The Department issued EPA Identification Number LAR 000086843.

On or about June 12, 2015, and July 22, 2015, the Department inspected the Respondent's property and noted the following violations:

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B. The Respondent failed to clean up and properly manage spilled used oil, in violation of LAC 33:V.4013.E. Specifically, during the June 12 inspection, hydraulic oil was noted spilled on the ground under a pump located on Aster Street. The spill was not noted in the July 22 inspection."

III

Respondents deny they committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondents, without making any admission of liability under state or federal statute or regulation, agree to pay, and the Department agrees to accept, a payment in the amount of FIFTEEN THOUSAND AND NO/100 DOLLARS ($15,000.00) of which Three Thousand Five Hundred Thirty-Six and 96/100 Dollars ($3,536.96) 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

Respondents further agree that the Department may consider the inspection report(s)/permit record(s), the Consolidated Compliance Orders & 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 Respondents, and in any such action Respondents 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 Respondents hereby waive 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

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondents have caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondents have 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.

LMK BATON ROUGE CONSTRUCTION, LLC

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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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: _____
Lourdes Iturralde, Assistant Secretary

THE STANDARD AT BATON ROUGE, LLC

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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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: _____
Lourdes Iturralde, Assistant Secretary