

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

<b>IN THE MATTER OF:</b>	*	<b>Settlement Tracking No.</b>
	*	<b>SA-WE-11-0029</b>
<b>MANDA PACKING CO., L.L.C.</b>	*	
	*	<b>Enforcement Tracking No.</b>
<b>AI # 39726</b>	*	<b>WE-CN-07-0413</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	
<b>ENVIRONMENTAL QUALITY ACT</b>	*	<b>Docket No. 2010-1050-EQ</b>
<b>LA. R.S. 30:2001, <u>ET SEQ.</u></b>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Manda Packing Co., L.L.C., d/b/a Four Star Meat Company (“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 formerly owned and/or operated a meat processing plant facility, known as Four Star Meat Company, located in Amite, Tangipahoa Parish, Louisiana (“the Facility”).

II

On October 21, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-07-0413, which was based upon the following findings of fact:

The Respondent owns and/or operates a meat processing plant, known as Four Star Meat Company, which is located at 10571 La. Highway 16 in Amite, Tangipahoa Parish, Louisiana. The

Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0105619 on or about February 8, 1999, which became effective on or about March 1, 1999 and expired on or about February 28, 2004. LPDES permit LA0105619 authorized the Respondent to discharge, from Outfall 001, treated combined process and sanitary wastewater. The Respondent was reissued LPDES permit LA0105619 on or about May 20, 2005, which became effective on or about July 1, 2005, and shall expire on June 30, 2010. LPDES permit LA0105619 authorizes the Respondent to discharge, from Outfall 001, treated combined process wastewater, sanitary wastewater, and washdown water, and from Outfall 002, untreated cooling water into a local drainage ditch; thence into Coon Branch; thence into the Natalbany River, all waters of the state.

An inspection conducted by the Department on or about August 20, 2001, revealed the Respondent failed to follow approved test methods. Specifically, the Respondent's records revealed that a Fecal coliform sample collected on or about March 14, 2000, was preserved in sulfuric acid. The records also revealed that the May 16, 2000, chain of custody did not indicate whether a Fecal coliform sample was placed on ice or a preservative was used. The Respondent's failure to follow approved test methods is in violation of LPDES permit LA0105619 ((Part III, Sections A.2, and C.5) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC33:IX.2701.A, LAC 33:IX.2701.E, and LAC 33:IX.2701.J.4.

An inspection conducted by the Department on or about April 21, 2004, revealed exceedances of the effluent limitations and for failure to calculate flow at the time of sample collection. On or about July 2, 2004, the Department issued a Notice of Deficiency (NOD) to the Respondent for the areas of concern discovered during the inspection. On or about August 18, 2004, the Respondent submitted a written response to the NOD stating that all areas of concern had been

addressed. On or about August 25, 2004, the Department issued to the Respondent a Deficiency Clear Letter stating that the areas of concern identified in the NOD had been adequately addressed.

An inspection conducted by the Department on or about January 24, 2007, and a file review conducted on or about October 2, 2008, revealed the following permit exceedances, as reported by the Respondent on the monthly Discharge Monitoring Reports (DMRs):

<b>Date</b>	<b>Outfall #</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
01/01/2001 to 01/31/2001	001	pH (maximum value)	9.0 S.U.	9.10 S.U.
01/01/2001 to 01/31/2001	001	TSS (monthly average)	4.8 lbs/day	5.26 lbs/day
02/01/2001 to 02/28/2001	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	4.38 lbs/day
02/01/2001 to 02/28/2001	001	TSS (monthly average)	4.8 lbs/day	7.94 lbs/day
07/01/2001 to 07/31/2001	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	4.38 lbs/day
07/01/2001 to 07/31/2001	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	5.93 lbs/day
07/01/2001 to 07/31/2001	001	BOD <sub>5</sub> (weekly average)	8.0 lbs/day	10.63 lbs/day
07/01/2001 to 07/31/2001	001	TSS (monthly average)	4.8 lbs/day	5.44 lbs/day
07/01/2001 to 07/31/2001	001	TSS (daily maximum)	9.6 lbs/day	7.01 lbs/day
07/01/2001 to 07/31/2001	001	pH (maximum value)	9.0 S.U.	9.65 S.U.
08/01/2001 to 08/31/2001	001	TSS (monthly average)	4.8 lbs/day	8.18 lbs/day
08/01/2001 to 08/31/2001	001	Fecal Coliform (weekly average)	400 Col/100 ml	540 Col/100 ml
10/01/2004 to 10/31/2004	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	7.50 lbs/day
10/01/2004 to 10/31/2004	001	TSS (monthly average)	4.8 lbs/day	10.97 lbs/day
10/01/2004 to 10/31/2004	001	TSS (daily maximum)	9.6 lbs/day	10.97 lbs/day
11/01/2004 to 11/30/2004	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	5.1 lbs/day

<b>Date</b>	<b>Outfall #</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
12/01/2004 to 12/31/2004	001	TSS (monthly average)	4.8 lbs/day	6.5 lbs/day
03/01/2005 to 03/31/2005	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	6.4 lbs/day
03/01/2005 to 03/31/2005	001	TSS (monthly average)	4.8 lbs/day	6.5 lbs/day
04/01/2005 to 04/30/2005	001	BOD <sub>5</sub> (monthly average)	4.0 lbs/day	5.7 lbs/day
04/01/2005 to 04/30/2005	001	TSS (monthly average)	4.8 lbs/day	7.5 lbs/day
02/01/2006 to 02/28/2006	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	25.9 mg/L
02/01/2006 to 02/28/2006	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	25.9 mg/L
03/01/2006 to 03/31/2006	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	22.2 mg/L
03/01/2006 to 03/31/2006	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	32.8 mg/L
04/01/2006 to 04/30/2006	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	20.2 mg/L
04/01/2006 to 04/30/2006	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	20.2 mg/L
05/01/2006 to 05/31/2006	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	30.4 mg/L
05/01/2006 to 05/31/2006	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	30.4 mg/L
06/01/2006 to 06/30/2006	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	24.4 mg/L
06/01/2006 to 06/30/2006	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	24.4 mg/L

<b>Date</b>	<b>Outfall #</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
07/01/2006 to 07/31/2006	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	18.9 mg/L
07/01/2006 to 07/31/2006	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	18.9 mg/L
08/01/2007 to 08/31/2007	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	10 mg/L /L
09/01/2007 to 09/30/2007	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	26.2 mg/L
09/01/2007 to 09/30/2007	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	27.1 mg/L
11/01/2007 to 11/30/2007	001	Total ammonia as Nitrogen (monthly average)	4.0 mg/L	15.6 mg/L
11/01/2007 to 11/30/2007	001	Total ammonia as Nitrogen (daily maximum)	8.0 mg/L	16.3 mg/L
02/01/2008 to 02/29/2008	001	Fecal Coliform (weekly average)	400 Col/100 ml	1100 Col/100 ml

Each exceedance of the effluent limitations constitutes a violation of LPDES permit LA0105619 (Part I and 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.2701.A. Additionally, the Respondent failed to submit noncompliance reports (NCRs) to the Department for all the above effluent exceedances. Each failure to submit NCRs constitutes a violation of LPDES permit LA0105619 (Part III, Sections A.2 and D.7), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A and LAC 33:IX.2701.L.7.

A file review conducted by the Department on or about May 29, 2008, revealed that the Respondent failed to report flow as required in LPDES permit LA0105619 on the monthly DMRs for

the monitoring period of August 2004. Failure to report flow is in violation of LPDES permit LA0105619 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted by the Department on or about May 29, 2008, revealed that the Respondent failed to monitor for the following monthly and/or weekly average and minimum and/or maximum values as reported by the Respondent on DMRs:

Monitoring Period	Parameter
02/01/2005 – 02/28/2005	BOD5, pH, TSS, Oil & Grease, Fecal coliform, COD, and Ammonia (monthly average and daily maximum) (outfall 001A and outfalls 002A)
01/01/2006 – 01/31/2006	Ammonia (daily maximum)
01/01/2006 – 01/31/2006	Total Phosphorous (monthly average and daily maximum)
07/01/2006 – 07/31/2006	Oil & Grease (daily maximum) (outfall 001A and outfalls 002A)

The Respondent’s failure to monitor its effluent is in violation of LPDES permit LA0105619 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A.

A file review conducted by the Department on or about May 29, 2008, revealed that the Respondent failed to submit DMRs to the Department as required by LPDES permit LA0105619. Specifically, the Respondent failed to submit DMRs for the monthly monitoring periods of April, May, and June 2001; January, May and September 2002; January, February, March, April, May, June, October, November, and December 2003; January and February 2004; and May and June 2005. Each failure to submit a DMR constitutes a violation of LPDES permit LA0105619 (Part I, Part II, Section K, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

A file review conducted by the Department on or about May 29, 2008, revealed the Respondent was discharging untreated cooling water from an unauthorized outfall. On or about

December 31, 2003, the Department received an LPDES Permit Application submitted by the Respondent stating that the discharge flow from the facility increased in November 2003 from 19,000 gallons per day to 39,000 gallons per day and requested the addition of a new outfall for the discharge of non-contaminated or treated thawing water. On or about July 1, 2005, the Department reissued LPDES permit LA0105619 authorizing the Respondent to discharge treated combined process wastewater, sanitary wastewater, and washdown water from Outfall 001 and cooling water to cool sealed and sterilized wastewater from Outfall 002. The Respondent's discharge of wastewater from a location not specified in LPDES permit LA0105619 from September 2004 through June 2005 is a violation of 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.2311.A.1.

The following violations, although not included in the foregoing enforcement action, are included within the scope of the settlement herein:

<b>Discharge Violation as Reflected In</b>	<b>Monitoring Period</b>	<b>Outfall</b>	<b>Parameter</b>
DMRs	Apr08, May08, Jun08, Aug08, Oct08, Nov08, Dec08, Jun09, Jul09, Oct09	001	Total ammonia as Nitrogen (monthly average)
DMRs	Apr08, Jun08, Oct08, Nov08, Jun09, Oct09	001	Total ammonia as Nitrogen (daily maximum)
DMRs	Jan02, May09	001	Fecal Coliform (daily maximum)
DMRs	May09	002	Fecal Coliform (daily maximum)
DMR	Apr01, May01, Mar10	001	pH (maximum value)
DMRs	Nov03	001	BOD5 (monthly average)

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-ONE THOUSAND NINETY AND NO/100 DOLLARS (\$21,090.00), of which Nine Hundred Four and 85/100 Dollars (\$904.85) 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 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 Tangipahoa 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.

MANDA PACKING CO., L.L.C.

BY: Thomas W Yarborough  
(Signature)

THOMAS W YARBOROUGH  
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 15<sup>th</sup> day of August, 20 11, at Baton Rouge, LA.

Ruthy L. Bezet  
NOTARY PUBLIC (ID # 41746)

Notary Public  
#41746  
State of Louisiana  
Commission is for Life.

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Peggy M. Hatch Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 9<sup>th</sup> day of December, 20 11, at Baton Rouge, Louisiana.

Dwana King  
NOTARY PUBLIC (ID # 20590)  
Not Roll #  
Life Commission

Dwana King  
(stamped or printed)

Approved: CSN  
Cheryl Sonnier Nolan, Assistant Secretary