

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ROBERT LEE MARTIN JR. LLC

AI # 137658

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

* **Settlement Tracking No.**
* **SA-WE-12-0040**
*
* **Enforcement Tracking No.**
* **WE-P-08-0547**
*
*
* **Docket No. 2009-10586-EQ**
*

SETTLEMENT

The following Settlement is hereby agreed to between Robert Lee Martin Jr. LLC (“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 construction company facility located in Baton Rouge, East Baton Rouge Parish, Louisiana (“the Facility”).

II

On October 20, 2009, the Department issued to Respondent a Penalty Assessment, Enforcement No. WE-P-08-0547, in the amount of \$2,143.23, which was based upon the following findings of fact:

The Respondent owns and/or operates a construction company known as Robert Lee Martin Jr. LLC which is/was performing development activities at lot 174 in Woodridge Subdivision located on Pecue Lane and Airline Highway in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent does not have coverage under the Louisiana Pollutant Discharge Elimination System

(LPDES) Storm Water Permit for Construction Activities of 5 acres or more (LAR100000) or other authority to discharge waste and/or other substances to waters of the state.

An inspection conducted by the Department on or about April 4, 2006, and a file review conducted on or about January 9, 2007, revealed that the Respondent failed to submit a Notice of Intent (NOI) for coverage under the Louisiana Pollutant Discharge Elimination System (LPDES) Storm Water Permit for Construction Activities. The Respondent's failure to apply for and obtain coverage is a violation of LAC 33:IX.2511.C.1

On or about February 21, 2007, Expedited Penalty Agreement & Notice of Potential Penalty, Enforcement Tracking No. XP-WE-06-0316, was issued to the Respondent for failure to submit a Notice of Intent (NOI) for coverage under the Louisiana Pollutant Discharge Elimination System (LPDES) Storm Water Permit for Construction Activities. On or about April 19, 2007, Expedited Penalty Agreement and Notice of Potential Penalty, Enforcement Tracking No. XP-WE-06-0316, was hand delivered to the Respondent. On or about November 27, 2007, a Notice of Fact Finding Meeting was issued to the Respondent to discuss the Expedited Penalty Agreement and gross revenues with the Respondent. On or about March 13, 2008, the Notice of Fact Finding Meeting was hand delivered. The Respondent attended the Fact Finding Meeting on or about March 26, 2008. However, the Respondent did not sign the agreement.

A penalty in the amount of \$2,143.23 (Two Thousand One Hundred Forty Three Dollars and Twenty Three Cents) was assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.

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 ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00), of which Six Hundred Sixty-Seven and 57/100 Dollars (\$667.57) 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, the permit record, 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 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 East Baton Rouge 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.

ROBERT LEE MARTIN JR. LLC

BY: [Signature]
(Signature)

Robert Lee Martin
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this 13th day of November, 20 12, at _____.



SIRENA T. WILSON
NOTARY PUBLIC
BAR ROLL # 34363
NOTARY PUBLIC ID # 132391
STATE OF LOUISIANA
My Commission is for Life

[Signature]
NOTARY PUBLIC (ID # 34363)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 26th day of Feb, 20 13, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary