

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	* Settlement Tracking No.
	* SA-MME-10-0035
SDT WASTE & DEBRIS SERVICES, L.L.C.	*
	* Enforcement Tracking No.
AI # 153141	* MM-CN-08-0067
	*
PROCEEDINGS UNDER THE LOUISIANA	* Docket No. 2010-1043-EQ
ENVIRONMENTAL QUALITY ACT	*
LA. R.S. 30:2001, <u>ET SEQ.</u>	*

SETTLEMENT

The following Settlement is hereby agreed to between SDT Waste & Debris Services, L.L.C. ("Respondent") and the Department of Environmental Quality ("LDEQ"), 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 solid waste non-processing transfer station facility located in Chalmette, St. Bernard Parish, Louisiana ("the Facility").

II

On November 6, 2008, the LDEQ issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-08-0067, which was based upon the following findings of fact:

The Respondent owns and operates a solid waste non-processing transfer station located at 5026 Paris Road, Chalmette, St. Bernard Parish, Louisiana. The facility was assigned the agency interest number 153141 and the alternate identification number of NTS-087-12763. The Respondent

does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority to discharge wastes and/or other substances to waters of the state.

On or about August 12-13, 2008, October 1-2, 2008, October 7, 2008, & October 30, 2008, inspections were performed which revealed the following violations:

- A. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155, and LAC 33:VII.315.C. This violation was discovered during inspections performed on August 12, 2008, and on October 1-2, 2008. Specifically, the Respondent allowed the deposition of leachate, contact storm water, and other various regulated solid waste including but not limited to: waste tires, household garbage, and tree wastes onto the ground surrounding the tipping area and into the two (2) ponds located on the north and the west sides of the facility. This violation was addressed on or about October 7, 2008, and on October 21, 2008. A Department representative observed the removal of the leachate, contact storm water, and other various regulated solid wastes. Receipts were provided by the Respondent verifying that this waste had been brought to a facility permitted to receive such waste.
- B. The Respondent failed to operate the tipping area in such a way as to prevent litter from leaving the tipping area, in violation of LAC 33:VII.508.G. This violation was discovered during inspections on August 12, 2008, and on October 1-2, 2008. Specifically, litter was present in areas surrounding the tipping area and throughout the facility. This

violation was noted as being addressed on or about October 7, 2008, during a Department inspection (receipts were also provided to the Department verifying that the waste had been disposed at a properly permitted facility). However, a subsequent inspection on or about October 30, 2008, revealed litter present in areas surrounding the tipping area.

- C. The Respondent failed to inspect the facility at the end of each operating day to ensure that all litter and waste is cleaned up and placed into the last transportation vehicle, in violation of LAC 33:VII.508.H. This violation was discovered during inspections performed on August 12, 2008, and October 1-2, 2008. This violation was addressed on or about October 7, 2008, as noted during an inspection. All litter and waste were removed and placed into the transportation vehicles.
- D. The Respondent failed to have the bodies of all vehicles used to transport solid waste that produces leachate equipped with a collection and containment system to ensure that leachate from the waste is not discharged, in violation of LAC 33:VII.505.A.3. This violation was discovered on October 1-2, 2008, October 7, 2008, and October 30, 2008. Specifically, transportation vehicles observed unloading and loading solid waste at the facility had no leachate collection and containment systems.
- E. The Respondent failed to lock the entry point of the facility or have some other control measure that prevents unauthorized ingress or

gress, except by willful entry, during non-operating hours, in violation of LAC 33:VII.508.F. This violation was discovered during an inspection performed on October 30, 2008. Specifically, the Respondent's entry point to the facility was unlocked and this allowed for the deposition of solid waste onto the tipping area during the non-operating hours of the facility.

The above-referenced inspections conducted by the Department also revealed that the Respondent was operating a solid waste non-processing transfer station without an appropriate LPDES permit. The Respondent's operations at its facility are classified under Standard Industrial Classification (SIC) code number 4212. The operations at the facility are industrial activity subject to permitting, and the Respondent is required to make application for and obtain permit coverage under the LPDES Storm Water Multi-Sector General Permit for Industrial Activities. A file review conducted by the Department on or about November 3, 2008, revealed that the Respondent submitted a Storm Water Pollution Prevention Plan (SWP3) to the Department on or about November 20, 2007, however, the Respondent failed to submit a Notice of Intent (NOI) for coverage under the LPDES Storm Water Multi-Sector General Permit for Industrial Activities. The Respondent was contacted by the Department on or about January 18, 2008, regarding this oversight and was informed by the Department's representative that an NOI would need to be submitted to obtain the permit coverage. The Respondent did submit a completed NOI to the Department on or about October 30, 2008. The Respondent's failure to apply for and obtain permit coverage in a timely manner is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2511.C.1.

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 LDEQ agrees to accept, a payment in the amount of SEVEN THOUSAND THREE HUNDRED TWENTY-TWO AND 98/100 DOLLARS (\$7,322.98), of which One Thousand Eight Hundred Twenty-Two and 98/100 Dollars (\$1822.98) represents the LDEQ'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 LDEQ 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 LDEQ may consider the inspection report(s), 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 LDEQ 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 LDEQ 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 LDEQ 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 St. Bernard Parish, Louisiana. The advertisement, in form, wording, and size approved by the LDEQ, 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 LDEQ and, as of the date this Settlement is executed on behalf of the LDEQ, 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 LDEQ. 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.

**SDT WASTE & DEBRIS SERVICES,
L.L.C.**

BY: _____
(Signature)

(Print)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Peggy M. Hatch, Secretary

BY: _____
Paul D. Miller, P.E., 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 # _____)

(Print)

Approved: *Paul D. Miller*
Paul D. Miller, P.E., Assistant Secretary