

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ROBERT B. SCHILLI
D/B/A TRUCK TRANSPORT

AI # 24691

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

* Settlement Tracking No.
* SA-MME-12-0045
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* Enforcement Tracking No.
* MM-CN-07-0152
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* Docket No. 2009-9330-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Robert B. Schilli (Respondent) and the Department of Environmental Quality (Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (the Act).

I

Respondent owns and/or operates Truck Transport, Inc. (the Site) located at 807 Walnut Street in Laplace, St. John the Baptist Parish, Louisiana (the "Facility").

II

On August 7, 2008, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-07-0152, which was based upon the following alleged violations:

1. On or about March 25, 2007, April 5, 2007, and April 23, 2007, inspections were conducted by a representative of the Department which revealed the following alleged violations:
 - A. The Respondent failed to label a container of used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.

- B. The Respondent failed to label a container of used antifreeze with one of the following phrases: “Universal Waste – Antifreeze,” “Waste Antifreeze,” or “Used Antifreeze,” in violation of LAC 33:V.3823.A.8.
- C. The Respondent failed to maintain containers containing hazardous waste in good condition so that the ability of the container to contain the waste is not impaired in accordance with LAC 33:V.2103.A, in violation of LAC 33:V.1109.E.1.a.i. Specifically, a drum of charcoal waste was severely rusted and corroded.
- D. The Respondent stored and transported hazardous waste off-site without obtaining an EPA identification number and failed to notify the Department as a generator of hazardous waste, in violation of LAC 33:V.1105. The Respondent obtained EPA identification number LA0000593806 in 1994 and inactivated the number in November 2003. The Respondent failed to notify the Department of their status as a Small Quantity Generator of hazardous waste upon generation of a drum of charcoal waste and two drums of EDC (Ethylene Dichloride).
- E. The Respondent offered hazardous waste to a transporter and failed to complete a hazardous waste manifest, in violation of LAC 33:V.1107.A.1. Specifically, EDC hazardous waste was sent off-site without a completed hazardous waste manifest.
- F. The Respondent signed and certified on the Notice of Intent (NOI) submitted to the Department on or about October 2, 2006, that a Storm Water Pollution Prevention Plan (SWP³) had been prepared for the site. During the April 5, 2007, inspection it was revealed that an SWP³ had not been developed for the site. The Respondent’s failure to have prepared an SWP³ prior to submitting an NOI is a violation of LPDES permit LAR05N798 (Part 1.3.1.2, Part 2.2.5, Part 4.1 and Section III.A.2), La. R.S. 30:2076 (A)

(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

2. A file review conducted by the Department on or about July 7, 2008, revealed that the Respondent failed to submit a Discharge Monitoring Report (DMR) for the 2007 benchmark monitoring required by LPDES permit LAR05N798. The failure to submit a DMR for the 2007 benchmark monitoring is in violation of LPDES permit LAR05N798 (Part 6.P.4 and Part 9.1.1) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

III

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

IV

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 SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which ONE THOUSAND EIGHT HUNDRED SEVENTY-FIVE AND 14/100 DOLLARS (\$1,875.14) represents the Department's enforcement costs, in settlement of the alleged 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

Respondent further agrees that the Department may consider the file review, the surveillance report, the Consolidated Compliance Order and 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.

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 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.

VII

This settlement is being made in the interest of settling the state's alleged 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. Respondent and the Department agree that this settlement shall comprise and settle all allegations of violations contained in Paragraph II of this agreement.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. John the Baptist 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.

IX

Payment is to be made within thirty (30) 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).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

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 B. SCHILLI

BY: Robert B Schilli
(Signature)

ROBERT B. SCHILLI
(Printed)

TITLE: Pres

THUS DONE AND SIGNED in duplicate original before me this 18th day of February, 20 13, at Fenton, mo.



KARI A. ALBRECHT EARLL
My Commission Expires
January 9, 2016
Jefferson County
Commission #11462462

Kari A. Albrecht Earll
NOTARY PUBLIC (ID # 11462462)

Kari A. Albrecht Earll
(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 22nd day of May, 20 13, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary