

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

JUN 9 2010

IN THE MATTER OF:

TALLOW CREEK, L.L.C.

AI # 130047

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

\* Settlement Tracking No.  
\* SA-WE-09-0023  
\*  
\* Enforcement Tracking No.  
\* WE-CN-07-0566  
\* WE-CN-07-0566A  
\*  
\* Docket # 2010-2032-EQ  
\* 2010-4126-EQ

SETTLEMENT

The following Settlement is hereby agreed to between Tallow Creek, L.L.C. ("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 Corporation that was performing land clearing and/or development activities for Tallow Creek Subdivision which is located off La. Highway 1085, South of U.S. Interstate 12, in Covington, St. Tammany Parish, Louisiana ("the Facility").

II

On December 9, 2008, a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-07-0566, was issued to the Respondent based upon the following findings of fact:

The Respondent owns and/or operates Tallow Creek, L.L.C. which is/was performing land clearing and/or development activities for Tallow Creek Subdivision, which is located off La. Highway 1085, South of U.S. Interstate 12, in Covington, St. Tammany Parish, Louisiana. The

Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAR100000 on May 20, 2008, and was specifically assigned permit number LAR10E918. The permit will expire on September 30, 2009. LPDES permit LAR10E918 authorizes the Respondent to discharge storm water associated with construction activities into waters of the state.

An inspection conducted by the Department on or about November 18, 2006, in response to a citizen's complaint, revealed that the Respondent had unauthorized discharges and/or other activities occurring at the site. Specifically, stormdrains throughout the subdivision have accumulation of sediment/dirt with no Best Management Practices (BMPs) in place. The unauthorized discharge of pollutants into the storm drains, thence into waters of the state is in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

An inspection conducted by the Department on or about November 18, 2006, in response to a citizen's complaint, revealed that no storm water erosion and sediment controls or other BMPs were in place at the construction site.

A file review conducted by the Department on or about December 10, 2008, revealed that the Respondent had not submitted a LPDES Notice of Intent (NOI) for coverage under the Storm Water General Permit for Construction Activities prior to construction activities. Specifically, the file review revealed that the LPDES NOI for coverage under the Storm Water General Permit for Construction Activities submitted by the Respondent was received by the Department on or about February 21, 2008. The Respondent's failure to apply for and obtain permit coverage prior to construction activities is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2501.A, and LAC 33:IX.2511.C.1.

On February 4, 2010, an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-07-0566A, was issued to the Respondent amending the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-07-0566, as follows:

The Department amended Paragraph IV of the Findings of Fact to read as follows:

“IV.

A file review conducted by the Department on or about January 14, 2010, revealed that the Respondent had not submitted a LPDES notice of Intent (NOI) for coverage under the Storm Water General permit for construction Activities prior to construction activities. Specifically, the file review revealed that the LPDES NOI for coverage under the Storm Water General Permit for Construction Activities submitted by Respondent was received by the Department on or about February 21, 2008. The Respondent’s failure to apply for and obtain permit coverage prior to construction activities is a violation of La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.2501.A, and LAC 33:IX.2511.C1.”

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-07-0566 and Agency Interest No. 130047, as if reiterated herein.

IIA

LDEQ notes that Tallow Creek instituted remedial actions to correct any potential deficiencies, as follows:

1. Tallow Creek did submit a LPDES Notice of Intent for coverage under the Stormwater General Permit for Construction Activities on or about November 1, 2007.

2. An LDEQ inspection conducted at the site on November 2, 2007, revealed that "stormwater controls were adequate and in place in these areas during the inspection. SWPPP was onsite and BMP's are being followed."

### III

In response to the Consolidated Compliance Order & Notice of Potential Penalty and the Amended 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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which Eight Hundred Fifty-Nine and 41/100 Dollars (\$859.41) 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 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.

## 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 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. Tammany 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 a proof-of-publication affidavit 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.

TALLOW CREEK, L.L.C.

BY: [Signature]  
(Signature)

Chris Korman  
(Print)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 4th day of June, 20 10, at Slidell, LA.

[Signature]  
NOTARY PUBLIC (ID # 1043418)

Deborah Guidry  
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch, Secretary

BY: [Signature]

Beau James Brock, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 12th day of October, 20 10, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff  
(Print)

Approved: [Signature]  
Paul D. Miller, P.E., Assistant Secretary