

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TANGIPAHOA PARISH GOVERNMENT

AI # 43470

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

* Settlement Tracking No.
* SA-AE-07-0049
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* Enforcement Tracking No.
* AE-P-07-0055
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SETTLEMENT

The following Settlement is hereby agreed to between Tangipahoa Parish Government (“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 governmental entity that owns and/or operates a municipal solid waste landfill facility located at 57510 Hano Road in Independence, Tangipahoa Parish, Louisiana (“the Facility”).

II

On June 22, 2007, the Department issued to Respondent a Penalty Assessment, Enforcement No. AE-P-07-0055, in the amount of \$2,145.25, which was based upon the following findings of fact:

The Respondent owns and/or operates the Tangipahoa Parish Landfill, a municipal solid waste landfill located at 57510 Hano Road in Independence, Tangipahoa Parish, Louisiana. The facility does not currently operate under an air permit. An initial Title V permit application was

submitted on or about November 30, 2006, and is currently under review by the Department.

The Respondent's facility is subject to 40 CFR 60 Subpart W—Standards of Performance for Municipal Solid Waste Landfills, promulgated March 12, 1996, which language has been adopted as a Louisiana regulation in LAC 33:III.3003. This subpart applies to municipal solid waste landfills that commenced construction, reconstruction, or modification on or after May 30, 1991. The Respondent's facility became subject to this subpart after a modification to the facility on or about May 9, 2005, which increased the design capacity of the facility to 3.26 million megagrams and 3.23 million cubic meters.

On or about October 6, 2006, a file review of the Tangipahoa Parish Landfill was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. According to 40 CFR 60.757(a), an amended design capacity report providing notification of an increase in the design capacity of the landfill shall be submitted within ninety (90) days of an increase in the maximum design capacity of the landfill to or above 2.5 million megagrams and 2.5 million cubic meters. On or about May 9, 2005, the Respondent was granted approval to increase the design capacity of its landfill to 3.26 million megagrams and 3.23 million cubic meters. The Respondent submitted the facility's amended design capacity report on or about August 16, 2006. The failure to timely submit the facility's amended design capacity report within ninety (90) days of an increase in the maximum design capacity of the landfill is a violation of 40 CFR 60.757(a) which language has been adopted as a Louisiana regulation in LAC 33:III.3003. This is also a violation of Section 2057(A)(2) of the Act.
- B. According to 40 CFR 60.757(b), an initial nonmethane organic compounds (NMOC) emission rate report shall be submitted within ninety (90) days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction on or about March 12, 1996. On or about May 9, 2005, the Respondent was granted approval to increase the design capacity of its landfill to 3.26 million megagrams and 3.23 million cubic meters. The Respondent

submitted the facility's amended design capacity report on or about August 16, 2006. The failure to timely submit the facility's initial NMOC emission rate report within ninety (90) days is a violation of 40 CFR 60.757(b) which language has been adopted as a Louisiana regulation in LAC 33:III.3003. This is also a violation of Section 2057(A)(2) of the Act.

- C. According to 40 CFR 60.752, the owner or operator of a municipal solid waste landfill subject to 40 CFR 60 Subpart WWW with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to Part 70, is subject to Part 70 permitting requirements, and becomes subject to the requirements of 40 CFR 70.5(a)(1)(i) no later than ninety (90) days after the date of commenced construction, modification, or reconstruction for municipal solid waste landfills that commence construction, modification, or reconstruction on or after March 12, 1996. According to 40 CFR 70.5(a)(1)(i), a timely application for a source applying for a Part 70 permit for the first time is one submitted within 12 months after the source becomes subject to the permit program. The Respondent failed to submit the facility's Part 70 permit application, in violation of 40 CFR 60.752, which language has been adopted as a Louisiana regulation in LAC 33:III.3003. This is also a violation of LAC 33:III.501.C.1, LAC 33:III.501.C.2, and Section 2057(A)(2) of the Act.

On December 1, 2006, a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. AE-CN-06-0135 was issued to the Respondent for the aforementioned violations cited. The Respondent did not request an adjudicatory hearing on CONOPP Enforcement Tracking No. AE-CN-06-0135. Therefore, pursuant to the Environmental Quality Act, LA. R.S. 30:2001 et seq., the Consolidated Compliance Order & Notice of Potential Penalty became final and is not subject to further review.

On January 3, 2008, the Respondent was issued Title V Permit No. 2840-00234-V0. Respondent timely submitted to the Department the Title V semiannual Monitoring Form and Title V Annual Compliance Form in March of 2008.

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 TWO THOUSAND ONE HUNDRED FORTY-FIVE AND 25/100 DOLLARS (\$2,145.25), of which Seven Hundred Thirty-Seven and 78/100 Dollars (\$737.78) represents DEQ'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 DEQ 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 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 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 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 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.

TANGIPAHOA PARISH GOVERNMENT

BY: Gordon A. Burgess
(Signature)

Gordon A. Burgess
(Print)

TITLE: Parish President

THUS DONE AND SIGNED in duplicate original before me this 22nd day of Dec, 20 08, at Amite, LA 70422.

Margie Allen
NOTARY PUBLIC (ID # _____)

Margie Allen
Notary Public ID#51270

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: Peggy M. Hatch

Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 26th day of March, 20 09, at Baton Rouge, Louisiana.

Perry Theriot
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(Print)

Approved: Peggy M. Hatch
Peggy M. Hatch, Assistant Secretary