

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

WAGUESPACK RENTAL, INC. d/b/a
INNOVATIVE WASTE SYSTEMS

AI # 160544

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

* Settlement Tracking No.
* SA-SE-11-0032
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* Enforcement Tracking No.
* SE-CN-08-0572
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SETTLEMENT

The following Settlement is hereby agreed to between Waguespack Rental Inc. d/b/a Innovative Waste Systems (“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 corporation with facilities located at 14801 Scenic Highway, East Baton Rouge Parish, Louisiana. Respondent is engaged in the transportation of solid waste, and is registered with the Department under solid waste transporter number T-033-12999.

II

On December 16, 2008, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-08-0572, to Innovative Waste Systems, Inc., which was based upon the following findings of fact:

On or about September 9, 2008, representatives of the Department conducted aerial surveillance of an area located at the east end of Quest Drive (a dirt expansion of Bowden Road) in

Gonzales, Ascension Parish, Louisiana (“the Site”). On or about September 15, 2008, the Department conducted a follow-up inspection that revealed the following violations:

- A. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or the authority of the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. The regulated solid waste disposed at the Site includes, but is not limited to, household garbage, wood waste, construction and demolition debris, white goods, car parts, fire extinguishers, and oxygen canisters.
- B. The Respondent caused and/or allowed the open burning of regulated solid waste, in violation of LAC 33:VII.351.M. Specifically, the Respondent conducted the open burning of regulated solid waste including, but not limited to, household garbage, wood waste, construction and demolition debris, white goods, car parts, fire extinguishers, and oxygen canisters.
- C. The Respondent caused and/or allowed the transportation of regulated solid waste to a facility not permitted to receive such waste, in violation of LAC 33:VII.505.D.

III

Respondent denies it was properly named or served with Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-08-0572 and denies that 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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which Three Thousand Six Hundred Eighty-Three and 33/100 Dollars (\$3,683.33) represents the Department’s enforcement costs, in

settlement of the violations alleged in Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-08-0572 and 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).

V

Respondent further agrees that the Department may consider the inspection report(s), the 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 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

Within thirty days after this agreement is finally executed, the Department will rescind the Consolidated Compliance Order & Notice of Potential Penalty, Number SE-CN-08-0573, issued on December 16, 2008 to Richard Waguespack, Inc.

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 Ascension 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 including penalty claims that the Department may have against Respondent or against Richard Waguespack, Inc. arising from the findings of fact in

Consolidated Compliance Orders & Notices of Potential Penalty, SE-CN-08-0572 and/or SE-CN-08-0573, 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.

WAGUESPACK RENTAL, INC. d/b/a
INNOVATIVE WASTE SYSTEMS

BY: Adrian Wag
(Signature)

Adrian WAGUESPACK
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 1 day of
MARCH, 20 12, at 1:10 pm, Baton Rouge, LA

Brian M. Chustz

NOTARY PUBLIC (ID # 87473)
BRIAN M. CHUSTZ
Bar Roll #32392
PARISH OF EAST BATON ROUGE
NOTARY PUBLIC
STATE OF LOUISIANA
MY COMMISSION IS FOR LIFE
(stamped or printed)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Peggy M. Hatch Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 30th day of
July, 20 12, at Baton Rouge, Louisiana.

Perry Theriot
NOTARY PUBLIC (ID # 19181)

Preliminarily Approved: Cheryl
Cheryl Sonnier Nolan, Assistant Secretary