

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-SE-09-0026
WASTE MANAGEMENT OF LOUISIANA, L.L.C.	*	
	*	
AI # 12241	*	Enforcement Tracking No.
	*	SE-CN-07-0998
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Waste Management of Louisiana, 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 company that owns and/or operates a sanitary landfill facility located in Monroe, Ouachita Parish, Louisiana ("the Facility").

II

On August 1, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-07-0998, which was based upon the following findings of fact:

The Respondent owns and/or operates a facility known to the Department as Magnolia Sanitary Landfill located at 1000 Russell Sage Road in Monroe, Ouachita Parish, Louisiana. The

Respondent is permitted by the Department as a Type I and II Landfill identified by facility number D-073-1848 and operates under solid waste standard permit P-0046R1.

On or about October 4, 2007, and October 25, 2007, inspections were made at the Respondent's facility. Based on the inspections, the following violations are alleged by the Department:

- A. The Respondent failed to provide fire protection in violation of Standard Permit P-0046R1 Part II 521.B.1.d and LAC 33:VII.709.B.4. Specifically, one (1) fire extinguisher was found to be expired on one (1) of the vehicles at the facility. This violation was addressed on October 25, 2007.
- B. The Respondent failed to provide interim cover or alternative daily cover adequate to prevent erosion and control leachate generation, in violation of Standard Permit P-0046R1 Part II 521.F.3.b, Part III Appendix I, and LAC 33:VII.711.B.2.b and c. Specifically, side slope of Cell 19 had garbage/litter exposed in some areas, the north side of Cell 19 had an area of leachate collection, and inadequate portable synthetic daily cover (PSDC) is being applied. This violation was addressed on October 25, 2007.
- C. The Respondent failed to follow the quality-assurance/quality-control program for solidifying liquid waste, in violation of Standard Permit P-0046R1 Part III Appendix K and LAC 33:VII.711.D.1.g. Specifically, the quality-assurance/quality-control program was not being followed for the liquid waste solidification basin. Liquid waste had flowed into a closed portion of the landfill. This violation was addressed on October 25, 2007.

- D. The Respondent failed to design, construct, maintain, and operate the surface impoundments to prevent overtopping by overfilling, wave action, or action of storms, in violation of Standard Permit P-0046R1 Part II 521.C.1.b and LAC 33:VII.713.D.3.b. Specifically, the facility had inadequate freeboard space around the surface impoundment and a tear in the liner was noted at the surface impoundment on the south side levee. This violation was addressed on October 25, 2007.

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 FOUR THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$4,600.00), of which Five Hundred Seventy-Three and 62/100 Dollars (\$573.62) 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).

V

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.

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 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.

VIII

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

X

In consideration of the above, any claims for penalties based on the violations alleged or the factual assertions made in the above referenced Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Number SE-CN-07-0998, 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.

WASTE MANAGEMENT OF
LOUISIANA, L.L.C.

BY: David Myhan
(Signature)

DAVID MYHAN
(Print)

TITLE: AREA VP

THUS DONE AND SIGNED in duplicate original before me this 25th day of
September, 20 09, at 9:00 AM.



Jimmy Cox Jr.
NOTARY PUBLIC (ID # 87731)

Jimmy Cox Jr.
(Print)

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 7th day of
December, 20 09, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

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