

**STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL SERVICES**

<b>IN THE MATTER OF</b>	*	
	*	
<b>D&amp; J FILL, INC.</b>	*	<b>PERMITS TRACKING NO.</b>
	*	
	*	
<b>CONSTRUCTION AND DEMOLITION</b>	*	<b>OC-0354</b>
<b>DEBRIS LANDFILL</b>	*	
	*	
<b>D-005-2831</b>	*	
<b>ASCENSION PARISH</b>	*	<b>AGENCY INTEREST NO.</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	<b>28092</b>
<b>ENVIRONMENTAL QUALITY ACT,</b>	*	
<b>La. R.S. 30:2001, <u>ET SEQ.</u></b>	*	

**ORDER TO CLOSE**

The following **ORDER TO CLOSE** is issued to **D & J Fill, Inc (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), Louisiana Revised Statutes (La R.S.) 30:2001, et seq., and particularly by La R.S. 30:2011 D(6) and (14) of the Act.

**FINDINGS OF FACT**

**PERMIT-RELATED FACTS**

I.

On or about August 5, 1994, the Department issued Order to Upgrade OU-0163 which required the facility to submit a permit application within 120 days. The Respondent requested

an extension for submittal of a Solid Waste Permit Application on or about December 1, 1994. On or about January 5, 1995, the Department amended OU-0163 to Order to Upgrade OU-0163A, which required the facility to submit the permit application on or before March 22, 1995. On or about March 3, 1995, the Respondent requested an additional sixty (60) days to submit the application. This request was denied by the Department.

## II.

On or about March 22, 1995, an incomplete permit application for the Site was received by the Department. The Respondent stated in the cover letter that the application is not complete and additional information would be submitted.

## III.

On or about May 4, 1998 the Department sent a Notice of Deficiency (NOD) letter #1 to the Respondent concerning its Solid Waste Permit Application. In correspondence sent to the Respondent on July 7, 1998, the Department approved a 120 day extension for the completion of responses to the Department's NOD letter #1. As a condition of the extension, the Respondent was to submit monthly status reports. These status reports were not received by the Department.

## IV.

The Respondent submitted several incomplete submittals in response to the Department's May 4, 1998 NOD letter #1. These included partial responses received on or about September 14, 1998, September 25, 1998, September 26, 1998, October 4, 1998 and October 14, 1998. On or about September 15, 1999, the Department requested a completed, stand-alone bound response to NODs for the application to be submitted within thirty (30) days. The Respondent submitted partial responses on or about October 27, 1999, November 1, 1999, and December 19, 1999.

V.

On or about October 25, 2005, preliminary NOD letter #2 was emailed to the Respondent pertaining to the partial submittals dated September 14, 1998, September 25, 1998, September 26, 1998, October 4, 1998, October 14, 1998, October 27, 1999, November 1, 1999, and December 19, 1999. A meeting was conducted on or about March 22, 2006, between the Department and the Respondent. During the course of the meeting, the Respondent was informed that a new, updated Solid Waste Permit Application would be required, due to the fact that much of the application information submitted during 1998 and 1999 was out-dated and/or not included as a stand-alone bound document.

VI.

On or about June 21, 2006, another meeting between the Respondent and the Department was conducted to discuss the Respondent's permit application. During the course of the meeting, the Department required the Respondent to submit a Status Report on the permit application by August 4, 2006, and a report on the final decision for the future of the Site by August 28, 2006. The Department sent follow-up correspondence dated July 21, 2006, to the Respondent documenting the June meeting. A status report for the application was received August 4, 2006. In correspondence dated January 8, 2007, the Respondent indicated the Site would be closed.

## COMPLIANCE-RELATED FACTS

### I.

On or about September 14, 1995, a Notice of Violation with the Enforcement Tracking No. SE-N-95-0257 was issued to the Respondent which was based upon the following finding of facts:

- A. A compliance inspection of the Site was conducted on or about May 23, 1995. Upon arrival, the inspector found the open face engulfed in fire. Fire personnel were on-site and attempting to control the fire. Approximately 15 minutes after arrival, the Fire Department Chief removed his personnel from the fire and suggested Mr. Rodosta spread the material and to keep the open area saturated. At that time, Mr. Rodosta began to pump water from an adjacent area onto the face. He did this for the next several days.
- B. Upon following inspection on May 26, 1995, the fire was partially extinguished with only small hot spots remaining. The fire flared again on Monday, May 29, 1995. The Respondent pumped water onto the face for the next week. During this time, no waste was accepted at the Site.
- C. A follow up inspection was conducted on or about June 6, 1995. The inspector noted there was no sign of fire.

### II.

On July 28, 1998, a Compliance Order with the Enforcement Tracking No. SE-C-98-0194 was issued to the Respondent which was based upon the following finding of facts:

- A. A compliance inspection of the Site was conducted on or about May 12, 1998. At the time of inspection, it was noted that the Respondent was not providing earthen cover over all portions of waste material every fourteen (14) days, as required in Item #6 of the facility's Interim Operation Plan. This failure to properly cover waste is a violation of the Interim Operational Plan (IOP), LAC 33:VII.901 and Section 2155 of the Act.
- B. On or about August 17, 1998, the Respondent requested the Department inspect the Site to confirm conformity with the Compliance Order.
- C. On or about August 24, 1998, the Department inspected the Site to determine conformity with this Compliance Order. The inspector noted the violations documented in the May 12, 1998 inspection had been corrected. It was recommended that a violation clear letter be issued to the Respondent.
- D. On or about October 2, 1998, a violation clear letter was issued to the Respondent.

### III.

On or about May 5, 2005, a Notice of Deficiency Letter was issued to the Respondent for the following findings of fact:

- A. On or about March 23, 2005, an inspection of the Site was conducted to determine compliance with the Louisiana Environmental Quality Act and supporting regulations. The following area of concern was noted in the inspection report and/or subsequent file review:

LAC 33.VII.721.A.2.b and IOP #6: The logbook indicates that interim cover is not being applied as required and a large amount of uncovered waste is found adjacent to and surrounding the working face.

- B. A follow-up inspection was conducted on or about June 17, 2005. The inspector noted that a large amount of waste that was uncovered at the March, 23, 2005, inspection was now covered, but there still remained a large amount of waste that needed to be covered.

#### IV.

On or about January 16, 2006, a Notice of Corrected Violation with the Enforcement Tracking No. SE-CV-05-0086 was issued to the Respondent which was based upon the following findings of fact:

- A. On or about March 23, 2005, June 17, 2005, July 8, 2005, October 20, 24, 27 and 28, 2005, inspections of the Site were performed to determine the degree of compliance with the Act, the Site's Interim Operational Plan and the Solid Waste Regulations.
- B. During the course of the inspections, it was noted that the Respondent failed to provide adequate interim cover at least every fourteen (14) days applied at a minimum of twelve (12) inches thick. This is in violation of the facility's Order to Upgrade, OU-0163A IOP #6 and LAC 33:VII.721.A. Specifically, the inspections revealed areas of waste uncovered for greater than fourteen (14) days. Upon follow up inspection, the violation was corrected.

V.

On or about January 26, 2006, a Compliance Order with the Enforcement Tracking No. WE-C-05-0506 was issued to the Respondent based upon the following findings of fact:

- A. The Respondent submitted DEQ Form SCC-2 Application for an NPDES water discharge permit to the Department on or about September 16, 1991. On or about August 31, 1993, the Department requested via mail that the Respondent submit an updated SCC-2 application. On or about October 8, 1993, the Department submitted a second request to the Respondent for an updated application. As of the date of this order, the Respondent had not submitted an updated permit application. Therefore, the Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority to discharge wastes and/or other substance (pollutants) to the waters of the state.
- B. An inspection conducted by the Department on or about October 27, 2005, as a result of a citizen complaint, disclosed the following areas of concern:
  - i. The operations at the Respondent's facility are activities subject to permitting. The Respondent is required to submit an application for and obtain permit coverage under the LPDES Storm Water Multi-Sector General Permit for Industrial Activities. The Respondent's failure to submit a completed application for obtaining permit coverage is in violation of La. R.S 30:2076 (A) (3), LAC 33:IX.501.A, C, D and LAC 33:IX.2341.C.1.

- ii. The Respondent was not using the best management practices. Specifically, stained soil was observed around the two (2) diesel tanks and no secondary containment was being provided.

C. A follow up inspection was conducted by the Department on or about January 29, 2007, to evaluate compliance with this compliance order. The inspection noted that the following elements of the compliance order were not being met :

- i. A hose was observed running from the holding pond to a vegetated area. There were impressions in the ground, as if a piece of equipment had been recently removed from the area.
- ii. Erosion and sediment controls were not maintained and were inadequate for this site.
- iii. Sediment was observed off-site, specifically in the woods and along the property boundary by the I-10 interstate.
- iv. The South slope was eroding into adjacent property.
- v. A Storm Water Pollution Prevention Plan had not been developed or implemented.
- vi. The facility was not sampling as per the compliance order: WE-C-05-0506. Samples had only been pulled once in December 2006.
- vii. Facility has not submitted the required Discharge Monitoring Report as required since June 1, 2006.
- viii. Facility failed to submit a Notice of Intent for the proper Storm Water general permit.

## VI.

On February 6, 2006, a Compliance Order and Notice of Potential Penalty with the Enforcement Tracking No. SE-CN-06-0026 was issued to the Respondent based on the following violations/findings of fact:

- A. On or about November 3, 2005, a Notice of Deficiency was issued to the Respondent, which noted numerous areas of smoke emitting from the landfill.
- B. On or about December 9, 2005, the Department received correspondence from the Respondent indicating the Notice of Deficiency had been addressed. The Respondent implemented the following actions to address the area of concern: increased compaction efforts through equipment tracking; application of additional cover materials and grading, including bringing in an outside contractor to supplement routine cover material transport capabilities; and temporary cessation of disposal activities in the areas of observed smoke emissions, and shifting the working area to more northerly portions of the site, so as to isolate the area of concern from additional waste depositions.
- C. On or about November 7, 2005, and January 31, 2006, inspections were conducted by representatives of the Department which revealed the following violation:

The Respondent failed to reduce fire-hazard potential by minimizing inward movement of atmospheric oxygen, in violation of LAC 33:VII.721.A.2.iii. Specifically, numerous areas of the landfill were emitting smoke and smoldering.

The Respondent was ordered to:

- A. To immediately, upon receipt of the Compliance Order, address the smoking, smoldering areas of the landfill by locating, identifying and extinguishing the source of combustion so as to prevent any reoccurrence of smoldering;
- i. To notify the Enforcement Division within one (1) day prior to implementation of any actions taken to locate, identify or permanently extinguish the source of combustion at the landfill to allow Department personnel to be present to witness the actions taken;
  - ii. To immediately take, upon receipt of the Compliance Order, any and all steps necessary to meet and maintain compliance with the Solid Waste Regulations;
  - iii. To submit to the Enforcement Division, within thirty (30) days after receipt of the Compliance Order, a written report that includes a detailed description of the circumstances surrounding the cited violation and actions taken or to be taken to achieve compliance with the Order  
Portion of the Compliance Order.

The basis for Penalty Assessment SE-P-06-0166 in the amount of \$22,609.75, includes but is not limited to, the violations contained in this Compliance Order.

## VII.

On May 18, 2006, a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. SE-CN-06-0160 was issued to the Respondent, which was based on the following violations/findings of fact:

- A. On February 6, 2006, the Department issued Compliance Order & Notice of Potential Penalty SE-CN-06-0026. The Order was received by the Respondent on

February 8, 2006.

- B. On or about March 1, 2006, and May 17, 2006, inspections were conducted by representatives of the Department that revealed the following violations:
- i. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or authority from the Department, in violation of La. R.S. 30:2155, and LAC 33:VII.315.A. Specifically, the Respondent had a 5-gallon container of diesel fuel at the Site. On March 1, 2006, and May 17, 2006, fuel stains were observed on the soil surrounding the container.
  - ii. The Respondent failed to keep a solid waste container properly closed, in violation of LAC 33:VII.721.C.4 and Interim Operation Plan (IOP) Item #7. Specifically, on March 1, 2006, the container holding diesel fuels was not properly closed.
  - iii. The Respondent failed to provide adequate security to the site, in violation of LAC 33:VII.721.B.2 and IOP Item 1. Specifically, on May 17, 2006, no personnel were posted at the front gate of the facility.
  - iv. The Respondent failed to deposit solid waste in the smallest practical area, in violation of LAC 33:VII.721.A.2.b and IOP Item 6. Specifically, on May 17, 2006, the Respondent had two (2) working faces on the landfill.
  - v. The Respondent failed to reduce fire-hazard potential by minimizing inward movement of atmospheric oxygen, in violation of LAC 33:VII.721.A.2.iii and Compliance Order and Notice of Potential

Penalty SE-CN-06-0026. Specifically, on May 17, 2006, several locations on the eastern and southeastern portion of the landfill were emitting smoke and smoldering, and areas throughout the landfill had scorched and/or burnt grass.

- vi. The Respondent failed to minimize erosion, in violation of LAC 33:VII.721.A.2.a.ii.b. Specifically, on March 1, 2006, and May 17, 2006, areas on the eastern and southeastern portions of the landfill had inadequate vegetative cover to prevent erosion and cracks were observed in the existing cover that exposed a small amount of waste.
- vii. The Respondent failed to reduce noxious odors, in violation of LAC 33:VII.721.A.2.a.v.

The basis for Penalty Assessment SE-P-06-0166 in the amount of \$22,609.75, includes but is not limited to, the violations contained in this Compliance Order.

### VIII.

On July 31, 2006, a Notice of Potential Penalty with the Enforcement Tracking No. SE-PP-06-0169 was issued to the Respondent which was based on the following violations/findings of fact:

- A. On or about May 30, 2006, an inspection of the Site was performed to determine the degree of compliance with the Act and the Solid Waste Regulations. It was determined the Respondent failed to reduce fire-hazard potential by minimizing inward movement of atmospheric oxygen, in violation of LAC 33:VII.721.A.2.iii, Compliance Order and Notice of Potential Penalty SE-CN-06-0026, and Compliance Order and Notice of Potential Penalty SE-CN-06-0160.

The basis for Penalty Assessment SE-P-06-0166 in the amount of \$22,609.75, includes but is not limited to, the violations contained in this Compliance Order.

IX.

On or about January 12, 2007, a Penalty Assessment with the Enforcement Tracking No. SE-P-06-0166 in the amount of \$22,609.75 was issued to the Respondent which was based upon the following findings of fact:

On or about November 7, 2005, January 31, 2006, March 1, 2006, May 17, 2006 and May 30, 2006, inspections were conducted by representatives of the Department which revealed the following violations:

- A. The Respondent failed to deposit solid waste in the smallest practical area, in violation of LAC 33:VII.721.A.2.b and IOP Item 6. Specifically, on May 17, 2006, the Respondent had two (2) working faces on the landfill
- B. The Respondent failed to reduce fire-hazard potential by minimizing inward movement of atmospheric oxygen, in violation of LAC 33:VII.721.A.2.iii and Compliance Order & Notice of Potential Penalty SE-CN-06-0026 on February 6, 2006. Specifically, on May 17, 2006, several locations on the eastern and southeastern portion of the landfill were smoldering and areas throughout the landfill had scorched and/or burned grass. This violation was also noted in inspections conducted on November 7, 2005, January 31, 2006 and May 30, 2006.
- C. The Respondent failed to minimize erosion, in violation of LAC 33:VII.721.A.2.a.ii.b. Specifically, on March 1, 2006 and May 17, 2006 areas on the eastern and southeastern portions of the landfill did not have adequate

vegetative cover to prevent erosion. Cracks were observed in the existing cover exposing a small amount of waste.

- D. The Respondent failed to minimize noxious odors, in violation of LAC 33:VII.721.A.2.a.v. This violation was noted in the inspection conducted on May 17, 2006.

The Respondent is appealing this action.

X.

From July 28, 2005 to May 22, 2007, Single Point of Contact has logged in fifty (50) complaints on the Site. The last complaint was received on May 2, 2007. A total of seventy-eight (78) inspections have been conducted at the Site. Fourteen (14) Enforcement actions have been issued the Site since 1989.

### **ORDER**

Based on the foregoing, the Respondent **is hereby ordered:**

I.

To submit to the Waste Permits Division, within thirty (30) days after receipt of this **ORDER TO CLOSE**, six bound copies of a plan to close the facility. The closure plan shall address applicable sections of LAC 33:VII.721.D and E. The Plan shall provide for initiating closure activities immediately and to cease accepting waste within twelve (12) months of receipt of this order. Closure activities shall be completed within ninety (90) days of final waste acceptance.

## II.

To immediately establish financial assurance for closure and post closure costs in the form of a Stand-By Trust as per LAC 33:VII.727.A.2. The closure and post closure costs must be based on the cost estimate of hiring a third party to perform closure and post closure activities. The cost of closure and post closure cost shall be covered by the Trust. The Trust shall be funded monthly by the Respondent until the end of the twelve (12) month operation period.

## III.

To regrade all areas of the landfill such that the maximum slopes are no steeper than 3(H):1(V) as required by LAC 33:VII.721.D3.a.ii and within the allotted twelve (12) month time frame.

## IV.

To remove all solid waste deposited in the wetland and surrounding area. The slope encroaching upon the wetland area must be regraded by removing waste such that the maximum slope is no steeper than 3(H):1(V) as required by LAC 33:VII.721.D3.a.ii. The procedure shall follow a plan that ensures no exposed waste remains at the end of each construction day.

## V.

To operate the facility in accordance with the **ORDER TO CLOSE** and approved closure plan.

## VI.

In accordance with LAC 33:VII.517.A, no modification to the facility shall be affected without the approval of the Assistant Secretary of the Office of Environmental Services, Louisiana Department of Environmental Quality.

VII.

To submit to the Louisiana Department of Environmental Quality - Office of Management and Finance, Fiscal Services Division, a complete “Disposer Annual Report” by August 1<sup>st</sup> annually in accordance with LAC 33:VII.721.B.1.a as required by the Department’s regulations.

**THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:**

I.

This **ORDER TO CLOSE** shall serve as the Respondent’s permit to operate the facility. Thus the Respondent is henceforth subject to the annual maintenance and monitoring fee provided in LAC 33:VII.529. This **ORDER TO CLOSE** shall replace the **ORDER TO UPGRADE (OU-0164A)** issued to the Respondent on January 5, 1995.

II.

The Respondent shall notify the Office of Environmental Services, Permits Division in writing at least ten (10) days before closure or intent to close, seal, or abandon any individual units within a facility.

III.

This **ORDER TO CLOSE** shall become final and not subject to further administrative review by the Department unless the Respondent files, no later than thirty (30) days after receipt of the **ORDER TO CLOSE**, a written request for hearing. Failure to timely request a hearing constitutes a waiver of the Respondent’s right to a hearing on a disputed issue of material fact or of law under Section 2025 (E) of the Act.

IV.

The request for adjudicatory hearing shall describe the basis for the hearing request. The request should reference the Permits Tracking Number, Facility Identification Number and Agency Interest Number, which are located on the first page of this document and should be directed to the following:

Department of Environmental Quality  
Office of the Secretary  
Post Office Box 4302  
Baton Rouge, LA 70821-4302  
**Attn: Hearings Clerk, Legal Division**  
**Re: Permits Tracking No. OC-0354**  
**Agency Interest No. 29082**

V.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **ORDER TO CLOSE** may be scheduled. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **ORDER TO CLOSE** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

VI.

The Respondent's failure or refusal to comply with this **ORDER TO CLOSE** and the provisions herein will subject the Respondent to possible enforcement procedures under LA R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

This **ORDER TO CLOSE** is effective upon receipt.

Baton Rouge, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2007

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Chuck Carr Brown, Ph.D.  
Assistant Secretary  
Office of Environmental Services

Copies of a request for a hearing and/or  
Related correspondence should be sent to:

Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Hearings Clerk