

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CITY OF SHREVEPORT

AI # 28044

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

* Settlement Tracking No.
* SA-MM-15-0006
*
* Enforcement Tracking No.
* WE-CN-09-0199
* WE-CN-09-0199A
* MM-CN-11-00821
*
* Docket No. 2011-9759-EQ
* 2012-13109-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between City of Shreveport (“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 potable water treatment plant located at 3205 Blanchard Road, Shreveport, Caddo Parish, Louisiana (“the Facility”).

II

On March 8, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-09-0199, which was based upon the following findings of fact:

“The Respondent owns and/or operates the potable water treatment plant located at 3205 Blanchard Road in Shreveport, Caddo Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG380000 on

or about May 24, 2005, and was specifically assigned permit number LAG380079, with an expiration date of December 31, 2009. On or about April 24, 2009, the Department received a permit modification request from the Respondent. LPDES permit LAG380079 was modified with an effective date of May 12, 2009, authorizing filter backwash to Outfall 001. On or about July 09, 2009, the Department received the Respondent's LPDES permit renewal application. LPDES permit LAG380079 authorizes the Respondent to discharge filter backwash and clarifier wastewater from the solids recovery system through Outfall 001, thence into Cross Bayou, waters of the state.

On or about July 1, 2009, Mr. Michael Harrelson, owner of Harrelson Materials Landfill, self-reported to the Department that wastewater was discharging from his construction and demolition (C & D) landfill located at 1101 Russel Road in Shreveport, Louisiana. However, Mr. Harrelson informed the Department that he had first noticed water bubbling up from a low-lying area of the landfill on or about June 27, 2009, and suspected that the discharge from the landfill was coming from one of the Respondent's potable water lines located beneath the landfill. On or about July 2, 2009, the Department conducted an onsite investigation at the location of the release, near the Respondent's facility. At the time of the investigation, a City official informed the Department that the discharge occurred from a break in one of the Respondent's potable water lines located approximately sixty (60) feet underneath the C & D landfill.

The Department's investigation conducted on or about July 2, 2009, revealed a dark-gray colored wastewater discharging into a ditch along the southern portion of the C & D landfill, thence into an unnamed tributary, thence to Twelve Mile Bayou. City officials estimated the discharge to be several million gallons per day for at least six days. The Respondent's unauthorized discharge of untreated wastewater is a violation of La. R.S. 30:2076 (A)(1)(b), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, and LAC 33:IX.501.D.

The Department's investigation conducted on or about July 2, 2009, revealed that the Respondent failed to remediate in a timely manner. Specifically, the Respondent had not initiated any remediation of the release as of the follow-up investigation conducted the afternoon of July 2, 2009. Per recommendation by the Department, City officials began constructing a dam in the receiving stream, and began pumping the wastewater into a nearby City sewer manhole. The Respondent's failure to remediate in a timely manner is a violation of La. R.S. 30:2076 (A)(1)(b), La. R.S. 30:2077, LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.D.

A file review conducted by the Department on or about August 12, 2009, revealed that the Respondent failed to submit signed and certified DMRs for the monthly monitoring periods of October 2005 through March 2006, and January 2009 through March 2009. The failure to submit signed and certified DMRs is in violation of LPDES permit LAG380079 (Part I, Page 10 of 10 and Part III, Sections A.2 and D.10) La R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2333.B, and LAC 33:IX.2701.K.1."

On May 22, 2012, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-09-0199A, which was based upon the following findings of fact:

"The Department hereby amends Paragraph III of the Findings of Fact section to read as follows:

The Department's investigation conducted on or about July 2, 2009, revealed a dark-gray colored wastewater discharging into a ditch along the southern portion of the C & D landfill, thence into an unnamed tributary, thence to Twelve Mile Bayou. City officials estimated the discharge to be several million gallons per day for at least six days. The Respondent's discharge of water treatment process wastewater at a location not authorized by the permit is a violation of La. R.S. 30:2076

(A)(3), LAC 33:IX.501.A, and LAC 33:IX.501.D.

The Department hereby deletes Paragraph IV of the Findings of Fact Section of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENTALTY WE-CN-09-0199**.

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-09-0199** and **AGENCY INTEREST NO. 28044** as if reiterated herein.”

The Department hereby stipulates that Paragraph III of the Findings of Fact Section of the CONOPP, as amended, should more properly be worded as follows:

“The Department’s investigation conducted on or about July 2, 2009, revealed a dark-gray colored discharge into a ditch along the southern portion of the C & D landfill, thence into an unnamed tributary, thence to Twelve Mile Bayou. City officials estimated the discharge to be several million gallons per day for at least six days. The discharge appeared to result at least in part from a broken water main located below the landfill, which the Department considers to be a violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.501.D.”

On May 31, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. MM-CN-11-00821, which was based upon the following findings of fact:

“The Respondent owns and/or operates the potable water treatment plant located at 3205 Blanchard Road in Shreveport, Caddo Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG380000 on or about May 24, 2005, and was specifically assigned permit number LAG380079, with an

expiration date of December 31, 2009. On or about April 24, 2009, the Department received a permit modification request from the Respondent. LPDES permit LAG380079 was modified with an effective date of May 12, 2009, authorizing filter backwash to Outfall 001. On or about July 09, 2009, the Department received the Respondent's LPDES permit renewal application. LPDES permit LAG380079 was re-issued to the Respondent on or about June 25, 2010, with an expiration date of December 31, 2014. LPDES permit LAG380079 authorizes the Respondent to discharge filter backwash and clarifier wastewater from the solids recovery system through Outfall 001, thence into Cross Bayou, thence into Red River, waters of the state.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY WE-CN-09-0199** on or about March 8, 2010, for the following violations: unauthorized discharge of untreated wastewater, failure to remediate in a timely manner, and failure to submit signed and certified Discharge Monitoring Reports (DMRs). The **COMPLIANCE ORDER** section required the Respondent to immediately cease all unauthorized discharges from the Respondent's facility, to take any and all steps necessary to meet and maintain compliance with LPDES permit LAG380079, to submit signed and certified DMRs, and to submit a written response to the **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY WE-CN-09-0199**. The Respondent submitted a written response on or about April 8, 2010. On or about April 12, 2010, the Department received a request for an Adjudicatory Hearing from the Respondent for **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY WE-CN-09-0199**. The Department and the Respondent entered into a Dispute Resolution Agreement on or about February 10, 2011.

On or about March 31, 2011, an inspection conducted by the Department in response to a citizen's complaint revealed that the Respondent did cause and/or allow an unauthorized discharge

into Cross Lake. Specifically, the Department discovered evidence of a sodium hydroxide release located on the north side of the plant near three (3) sodium hydroxide storage tanks. According to the Respondent, the spill consisted of approximately fifty (50) gallons of 25% sodium hydroxide solution that was released on January 12, 2011, while the material was transferred into one of the above-ground storage tanks (AST). The spill occurred when one of the ASTs began leaking and escaped secondary containment and leaked onto a concrete pad. The spill continued to flow downhill along the side of sedimentation basin #11, onto the concrete driveway, and into a storm drain that flows directly into Cross Lake. According to the Respondent, the truck driver flushed the spilled material with water into the storm drain. The unauthorized discharge of sodium hydroxide into waters of the state is a violation of La. R.S. 30:2075.

On or about March 31, 2011, an inspection conducted by the Department in response to a citizen's complaint, revealed that the Respondent did cause and/or allow an unauthorized discharge from sedimentation basin #11 into Cross Lake. Specifically, a discharge containing remnants of a previous spill and varying concentrations of water mixed with carbon, aluminum, polymer, sodium chloride, and chloride was continually leaking from the expansion joints of the basins and drained directly into Cross Lake. The unauthorized discharge is a violation of La. R.S. 30:2075.

On or about March 31, 2011, an inspection conducted by the Department in response to a citizen's complaint, revealed that the puddles around the sedimentation basin and the storm drain created by the spill, had pH values in the range of 11.5 standard units to 14.0 standard units.

On or about March 31, 2011, an inspection conducted by the Department in response to a citizen's complaint, revealed that the Respondent failed to prepare and/or implement an adequate Spill Prevention and Control (SPC) plan. Specifically, the Respondent did not have a SPC plan at the time of the inspection. In addition, area #1 contains three (3) 6,200-gallon ASTs, and area #2

contains two (2) 6,200-gallon ASTs and a 4,500-gallon AST. The Respondent failed to provide appropriate containment and/or diversionary structures to prevent a release of a regulated substance from reaching waters of the state. The secondary containment for area #1 was constructed with plywood and a chemical liner that failed to contain the release of sodium hydroxide from tank #1, and the secondary containment system does not appear to have adequate capacity to contain a release based on the volume of the largest tank in the system. The failure to prepare and/or implement an adequate SPC plan is a violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.905.B, and LAC 33:IX.907.D.

On or about March 31, 2011, an inspection conducted by the Department in response to a citizen's complaint, revealed that the Respondent failed to properly mitigate the unauthorized discharges identified in Paragraphs III and IV. Specifically, at the time of the inspection, the Respondent failed to take all reasonable steps to minimize or prevent the adverse affects resulting from the unauthorized discharges of NaOH. The inspector noted, as evidenced by photographs, that the releases were allowed to flow continually into the stormwater drain that flows directly into Cross Lake, and the Respondent did not take appropriate corrective actions to prevent the discharge from reaching waters of the state. The failure to properly mitigate the unauthorized discharges is a violation of LPDES Permit LAG380079 (Standard Conditions, Sections A.2 and D.7), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.D.

On or about March 31, 2011, an inspection conducted by the Department in response to a citizen's complaint, revealed that the Respondent failed to report the unauthorized discharges as required by LPDES Permit LAG380079. Specifically, the Respondent failed to notify the Department of the unauthorized discharges identified in Paragraphs III and IV. The failure to report an unauthorized discharge to the Department is a violation of LPDES Permit LAG380079 (Standard

Conditions, Sections A.2 and D.7), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.L.7.

The Respondent notified the Department as a conditionally exempt small quantity generator of hazardous waste and was assigned EPA Identification No. LAR000051458.

On or about March 31, 2011, an inspection was conducted by a representative of the Department which revealed the following violations:

- A. The Respondent failed to conduct a hazardous waste determination on sodium hydroxide (NaOH) contaminated soils, in violation of LAC 33:V.1103. Specifically, a spill of fifty (50) gallons of 25% sodium hydroxide (NaOH) solution was released when the distributor improperly offloaded NaOH into one (1) of the above ground storage tanks. Dead grass and remnants of the spill was found along basin #11 at the time of inspection. At the time of the inspection, the facility had not determined if the soil contaminated with NaOH was hazardous.
- B. 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.C. Specifically, staining was found on soil and a concrete pad outside of the secondary containment around two (2) above ground storage tanks of NaOH. An employee stated that the staining was a cumulative effect from small leaks and spills that had occurred over time from the above ground storage tanks.

III

In response to the CONOPPs, 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 FIFTEEN THOUSAND SEVENTY-EIGHT AND 29/100 DOLLARS (\$15,078.29), of which Three Thousand Seventy-Eight and 29/100 Dollars (\$3,078.29) 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), permit record(s), the CONOPPs 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 La. R. S. 30:2025(E) of the Act.

IX

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

X

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

XI

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).

XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIII

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.

CITY OF SHREVEPORT

BY: Ollie S. Tyler
(Signature)

Ollie S. Tyler
(Printed)

TITLE: Mayor

THUS DONE AND SIGNED in duplicate original before me this 20th day of OCTOBER, 20 15, at SHREVEPORT LA.

[Signature]
NOTARY PUBLIC (ID # _____)

WILLIAM C. BRADFORD, JR.
CADDO PARISH, LOUISIANA
BAR # 32358 / NOTARY # 89435
MY COMMISSION IS FOR LIFE
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Louise Finney Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17th day of March, 20 16, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Approved: [Signature]
D. Chance McNeely, Assistant Secretary

Perry Theriot
(stamped or printed)