

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

HARD ROCK SAND & GRAVEL, L.L.C.

AI # 22147

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

\* Settlement Tracking No.  
\* SA-WE-19-0020  
\*  
\* Enforcement Tracking No.  
\* WE-CN-18-00330  
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SETTLEMENT

The following Settlement is hereby agreed to between Hard Rock Sand & Gravel, 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 sand and gravel extraction facility located in Washington Parish, Louisiana (“the Facility”).

II

On September 4, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-18-00330, attached as Exhibit A.

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 TWELVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$12,500.00), of which One Thousand Seven Hundred Ninety and 57/100 Dollars (\$1,790.57) 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)/permit record(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

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 La. R. S. 30:2025(E) of the Act.

## VIII

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.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Washington Parish, Louisiana. The advertisement, in form and wording 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 B).

### XIII

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

### XIV

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.

Hard Rock Sand & Gravel, L.L.C.

BY: James J. Denmat II  
(Signature)

James J. Denmat II  
(Printed)

TITLE: Owner

THUS DONE AND SIGNED in duplicate original before me this 9<sup>th</sup> day of July, 20 2019, at \_\_\_\_\_.

Travis C. Andrews  
NOTARY PUBLIC (ID # \_\_\_\_\_)



\_\_\_\_\_  
(stamped or printed)

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

BY: [Signature]  
\_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 15<sup>th</sup> day of August, 20 20, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 92503 )

Amber Greenmillon Litchfield  
(stamped or printed)

Approved: [Signature]  
\_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

CONSOLIDATED COMPLIANCE ORDER &  
NOTICE OF POTENTIAL PENALTY

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312



Enforcement Tracking No.	WE-CN-18-00330	Certified Mail No.	7017 0530 0000 5978 8848
Agency Interest (AI) No.	22147	Contact Name	Kevin Foy
Alternate ID No.	LAU004409	Contact Phone No.	(225) 219-3485
Respondent:	Hard Rock Sand & Gravel, L.L.C.	Facility Name:	Hard Rock Sand & Gravel, L.L.C.
	c/o James J. Denham, Jr. Agent for Service of Process	Physical Location:	30326 River Road
	787 Hwy 27 South	City, State, Zip:	Mt. Hermon, LA 70450
	Tylertown, MS 39667	Parish:	Washington

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

## FINDINGS OF FACT

An authorized representative of the Department inspected the above-mentioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I.	The Respondent owns and/or operates a sand and gravel extraction facility located at 30326 River Road, Mt. Hermon, Washington Parish, Louisiana. The Respondent is not authorized to discharge into waters of the state.	
	<b>Date of Violation</b>	<b>Description of Violation</b>
II.	Inspection(s) 1/12/2018 2/23/2018	The Respondent caused and/or allowed the discharge of process wastewater and stormwater without a permit and/or other authority from the Department. During the January 12th inspection, the inspector observed a lack of controls to prevent an active discharge of process water from sand and gravel extraction and stormwater runoff full of sediments into a local drainage ditch and then into the Bogue Chitto River (Subsegment number LA090501_00), waters of the state. During the February 23rd inspection, the inspector observed no evidence of process water discharge, but did observe a continued lack of controls to prevent stormwater discharge and evidence of continued stormwater discharge either into the local drainage ditch and then into the Bogue Chitto River, or directly into the Bogue Chitto River, all waters of the state. (La. R.S. 30:2075)
III.	Inspection(s) 8/13/2015 1/12/2018 2/23/2018	The Respondent failed to apply for a permit to discharge to waters of the state. Specifically, the Respondent was notified of permit requirements for process and stormwater discharges associated with sand and gravel operations during an inspection taking place on August 13, 2015 in response to a citizen complaint (Incident #165358) and again on January 12, 2018 and February 23, 2018. To date, no application has been received by the Department. (La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2501.A)
IV.	Inspection(s) 1/12/2018 2/23/2018	The Respondent failed to submit a Notice of Intent for LAR100000. The Respondent discharged stormwater generated from construction activities greater than 5 acres. Facility representatives stated that the area was recently clear-cut for mining. (La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2501.A)

## ORDER

Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:

I.	To take, immediately upon receipt of this <b>COMPLIANCE ORDER</b> , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting all of the violations described in the "Findings of Fact" portion.
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this <b>COMPLIANCE ORDER</b> . This report and all other reports or information required to be submitted to the Enforcement Division by this <b>COMPLIANCE ORDER</b> shall be submitted to the Department at the address specified in this document.
III.	To submit a completed LPDES Permit Application to the Water Permits Division, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> . The completed LPDES Permit Application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25. The three sets (the original and two copies) of the completed permit application should be submitted to the Permits Division at the address specified in this document. A copy of the permit application should also be sent to the Enforcement Division.
IV.	To develop and implement, within thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> , a Storm Water Pollution Prevention Plan (SWPPP) for Hard Rock Sand and Gravel. A copy of the SWPPP shall also be submitted to the Enforcement Division within forty-five (45) days after receipt of this <b>COMPLIANCE ORDER</b> .

## RIGHT TO APPEAL

I.	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this <b>COMPLIANCE ORDER</b> . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this <b>COMPLIANCE ORDER</b> .
II.	The request for an adjudicatory hearing shall specify the provisions of the <b>COMPLIANCE ORDER</b> on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper left-hand corner of the first page of this document and should be directed to the address specified in this document.
III.	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 <b>COMPLIANCE ORDER</b> may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law's (DAL) Procedural Rules. The



	Department may amend or supplement this <b>COMPLIANCE ORDER</b> prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
IV.	This <b>COMPLIANCE ORDER</b> shall become a final enforcement action unless the request for hearing is timely filed. 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 2050.4 of the Act for the violation(s) described herein.
V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this <b>COMPLIANCE ORDER</b> shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this <b>COMPLIANCE ORDER</b> becoming a permanent part of its compliance history.
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this <b>COMPLIANCE ORDER</b> 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.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

**NOTICE OF POTENTIAL PENALTY**

I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Kevin Foy at (225) 219-3485 within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .
III.	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	This <b>CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY</b> is effective upon receipt.

**CONTACTS AND SUBMITTAL OF INFORMATION**

<b>Enforcement Division:</b>		<b>Hearing Requests:</b>	
Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Kevin Foy		Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-CN-18-00330 Agency Interest No. 22147	
<b>Water Permits Division (if necessary):</b>		<b>Physical Address (if hand delivered):</b>	
Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division		Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802	

**HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

- To appeal the **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**.
- To request closure of the **COMPLIANCE ORDER** portion, the Respondent must demonstrate compliance with the "Order" portion of this **COMPLIANCE ORDER** by completing the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form and returning it to the address specified.
  - Before requesting closure of the **COMPLIANCE ORDER** portion, please contact the Financial Services Division at 225-219-3865 or email them at [\\_DEQ-WWWFinancialServices@la.gov](mailto:_DEQ-WWWFinancialServices@la.gov) to determine if you owe outstanding fees.
- To expedite closure of the **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
  - The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
  - The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
  - The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer.
  - **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
  - Before requesting closure of the **NOTICE OF POTENTIAL PENALTY** portion, please contact the Financial Services Division at 225-219-3865 or email them at [\\_DEQ-WWWFinancialServices@la.gov](mailto:_DEQ-WWWFinancialServices@la.gov) to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Kevin Foy at (225) 219-3485 or [Kevin.Foy@la.gov](mailto:Kevin.Foy@la.gov).



\_\_\_\_\_  
Lourdes Iturza  
Assistant Secretary  
Office of Environmental Compliance


Date:

9-4-20

Attachment(s)

- Request to Close



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		 <b>DEQ</b> LOUISIANA	
<b>CONSOLIDATED COMPLIANCE ORDER &amp;                  NOTICE OF POTENTIAL PENALTY                  REQUEST TO CLOSE</b>			
Enforcement Tracking No.	WE-CN-18-00330	Contact Name	Kevin Foy
Agency Interest (AI) No.	22147	Contact Phone No.	(225) 219-3485
Alternate ID No.	LAU004409		
Respondent:	Hard Rock Sand & Gravel, L.L.C.	Facility Name:	Hard Rock Sand & Gravel, L.L.C.
	c/o James J. Denham, Jr.	Physical Location:	30326 River Road
	Agent for Service of Process		
	787 Hwy 27 South Tylertown, MS 39667	City, State, Zip:	Mt. Hermon, LA 70450
	Parish:	Washington	
<b>STATEMENT OF COMPLIANCE</b>			
<b>STATEMENT OF COMPLIANCE</b>		Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II of the "Order" portion of the <b>COMPLIANCE ORDER</b> .			
All necessary documents were submitted to the Department within 30 days of receipt of the <b>COMPLIANCE ORDER</b> in accordance with Paragraph(s) III of the "Order" portion of the <b>COMPLIANCE ORDER</b> .			
All necessary documents were submitted to the Department within 45 days of receipt of the <b>COMPLIANCE ORDER</b> in accordance with Paragraph(s) IV of the "Order" portion of the <b>COMPLIANCE ORDER</b> .			
All items in the "Findings of Fact" portion of the <b>COMPLIANCE ORDER</b> were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the <b>COMPLIANCE ORDER</b> . Final compliance was achieved as of:			
<b>SETTLEMENT OFFER (OPTIONAL)</b>			
<i>(check the applicable option)</i>			
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart I. Chapter 7.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY</b> (WE-CN-18-00330), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.		
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY</b> (WE-CN-18-00330), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional) = \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-</b> the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</li> </ul> The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY</b> (WE-CN-18-00330) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.		
<b>CERTIFICATION STATEMENT</b>			
I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.			
Respondent's Signature		Respondent's Printed Name	Respondent's Title
Respondent's Physical Address		Respondent's Phone #	Date
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>			
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Kevin Foy			

If you have questions or need more information, you may contact Kevin Foy at (225) 219-3485 or Kevin.Foy@la.gov.