

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TKTMJ, INC.

AI # 216342

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

* Settlement Tracking No.
* SA-AE-23-0063
*
* Enforcement Tracking No.
* AE-PP-19-00584
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between TKTMJ, Inc. (“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 and a licensed contractor that was contracted to perform demolition activities at the former site of Thomas J. Semmes School, located in New Orleans, Orleans Parish, Louisiana (“the Site”).

II

On August 7, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-19-00584 (Exhibit 1).

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 FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00), of which One Thousand Four Hundred Twenty and 84/100 Dollars (\$1,420.84) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 Notice of Potential Penalty and this Settlement Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Orleans Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 Settlement 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 attached hereto.

XI

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

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.

TKTMJ, INC.

BY: [Signature]
(Signature)

Michael Tubre
(Printed)

TITLE: Vice President

THUS DONE AND SIGNED in duplicate original before me this 23rd day of OCTOBER, 20 23, at 100 HARBOR CIR., NOLA.

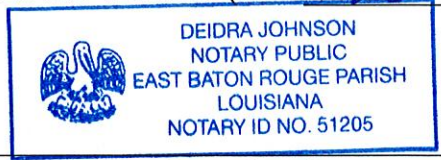
[Signature]
NOTARY PUBLIC (ID # 20549)
SCOTT JAMES MEDLUND
Notary Public
Louisiana Bar No. 30549
State of Louisiana
My Commission Expires [Date]

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Roger W. Gingles, Secretary

BY: [Signature]
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 3rd day of January, 20 24, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 51205)



(stamped or printed)
lifetime commission

Approved: [Signature]
Celena J. Cage, Assistant Secretary

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312**



NOTICE OF POTENTIAL PENALTY

Enforcement Tracking No.	AE-PP-19-00584	Certified Mail No.	7017 0530 0000 5978 6110
Agency Interest (AI) No.	216342	Contact Name	Stacy Martinez
Alternate ID No.	N/A	Contact Phone No.	225-219-3378
Respondent:	TKTMJ, Inc.	Facility Name:	Thomas J. Semmes School
	c/o Michael Tubre	Physical Location:	1008 Jourdan Avenue
	Agent for Service of Process		
	100 Harbor Cir.	City, State, Zip:	New Orleans, LA 70117
	New Orleans, LA 70126	Parish:	Orleans

This **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 30:2050.3(B).

FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned 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, a licensed contractor, was contracted to perform demolition activities at the former site of Thomas J. Semmes School located at 1008 Jourdan Avenue in New Orleans, Orleans Parish, Louisiana (the Site). As a result of a citizen's complaint (Incident No. T-190281), the Department conducted investigations of the Site on March 27, 2019, April 1, 2019, and April 8, 2019. According to a representative of the Respondent, the structure at the Site was demolished on March 22, 2019, and was not inspected for asbestos prior to demolition due to the danger of collapse. During the March 27, 2019 inspection, the Respondent's representative stated that approximately twenty-three (23) loads of debris loaded in roll-off boxes had been transported to the Gentilly Landfill for disposal as solid waste. According to the Notification of Demolition and Renovation and Asbestos Contaminated Debris Activity Form [AAC-2(a)] postmarked May 10, 2019, Abatement Construction & Service Contractor Inc., an accredited asbestos removal contractor, will perform the asbestos removal at the Site, and the material at Site will be treated as regulated asbestos-containing material (RACM) with approximately 1,600 cubic yards of RACM to be removed. Additional AAC-2(a)s postmarked May 23, 2019, June 5, 2019, June 11, 2019, June 18, 2019, and June 20, 2019 were submitted to the Department requesting additional Asbestos Disposal Verification Forms (ADVs). According to the above AAC-2(a)s, the estimated project completion date is October 31, 2019.

	Date of Violation	Description of Violation
II.	Inspection(s) & File Review March 27, 2019, April 1, 2019, April 8, 2019, and July 17, 2019	The Respondent failed to notify the Department by the following working day when the Site was being demolished under an order issued by a state or local government agency because the Site was structurally unsound and in danger of imminent collapse. This is a violation of LAC 33:III.5151.F.2.c.iii and La. R.S. 30:2057(A)(2).
III.	Inspection(s) & File Review March 27, 2019, April 1, 2019, April 8, 2019, and July 17, 2019	The Site was demolished prior to an inspection for the presence of asbestos or a notification. Therefore, all the debris at the Site is categorized as asbestos-containing debris (ACD), unless the owner/operator affirmatively demonstrates there is no ACM in the debris. The Respondent failed to follow the procedures and requirements of Subsection J of LAC 33:III.5151 by transporting approximately twenty-three (23) loads of ACD loaded in roll-off boxes to the Gentilly Landfill. This is a violation of LAC 33:III.5151.F.1.d and La. R.S. 30:2057(A)(2).

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 Stacy Martinez at 225-219-3378 or stacy.martinez@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.



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 in order 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 violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . 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 this 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.	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V.	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

CONTACTS AND SUBMITTAL OF INFORMATION

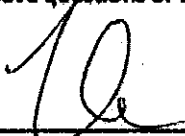
Enforcement Division:	Physical Address (if hand delivered):
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Stacy Martinez	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **NOTICE OF POTENTIAL PENALTY**, 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 "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" 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.

If you have questions or need more information, you may contact Stacy Martinez at 225-219-3378 or stacy.martinez@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 8-7-19

cc: TKTMJ, Inc.
109 Arthur Street
Natchitoches, LA 71457

Attachment(s)
- Request to Settle

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312**



**NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)**

Enforcement Tracking No.	AE-PP-19-00584	Contact Name	Stacy Martinez
Agency Interest (AI) No.	216342	Contact Phone No.	225-219-3378
Alternate ID No.	N/A		
Respondent:	TKTMJ, Inc.	Facility Name:	Thomas J. Semmes School
	c/o Michael Tubre	Physical Location:	1008 Jourdan Avenue
	Agent for Service of Process		
	100 Harbor Cir. New Orleans, LA 70126	City, State, Zip:	New Orleans, LA 70117
		Parish:	Orleans

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<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.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-19-00584), 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 NOTICE OF POTENTIAL PENALTY (AE-PP-19-00584), 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"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-19-00584) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

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

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Stacy Martinez

If you have questions or need more information, you may contact Stacy Martinez at 225-219-3378 or stacy.martinez@la.gov.