

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MIGHTY HAUL, INC.

AI # 79937

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

* Settlement Tracking No.
* SA-MM-23-0062
*
* Enforcement Tracking No.
* MM-CN-21-00411
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Mighty Haul, 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 that owns and/or operates a solid waste processing and transfer station located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On November 3, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-21-00411 (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 EIGHTEEN THOUSAND AND NO/100 DOLLARS (\$18,000.00), of which Two Thousand Eight Hundred Fifty-Six and 72/100 Dollars (\$2,856.72) 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 Consolidated Compliance Order & 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

An initial payment of \$1,500.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining \$16,500.00 is to be made over a period of twenty-four (24) consecutive months in the amount of \$687.50 per month due on the 15th of the month. 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.

MIGHTY HAUL, INC.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Roger W. Gingles, Secretary

BY: _____
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 

Celena J. Cage, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

NOV 03 2021

CERTIFIED MAIL (7020 1290 0001 0463 0678)
RETURN RECEIPT REQUESTED

MIGHTY HAUL, INC.
c/o Deidra P. Davis
Agent for Service of Process
3900 North Causeway Blvd.
Suite 1470, One Lakeway Center
Metairie, LA 70002

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-21-00411
AGENCY INTEREST NO. 79937**

Dear Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MIGHTY HAUL, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to William Heintz at (225) 219-9782 or William.Heintz@la.gov.

Sincerely,

Angela Marse
Administrator
Enforcement Division



AM/WJH/wjh
Alt ID No. LAR000102339
Attachment

c: Kenneth J. Vincent
2702 Arts St.
New Orleans, LA 70122

CERTIFIED MAIL (7020 1290 0001 0463 0685)
RETURN RECEIPT REQUESTED

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

IN THE MATTER OF	*	
	*	
MIGHTY HAUL, INC.	*	ENFORCEMENT TRACKING NO.
ORLEANS PARISH	*	
ALT ID NO. LAR000102339	*	MM-CN-21-00411
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	79937
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MIGHTY HAUL, INC. (RESPONDENT)** 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

I.

The Respondent owns and/or operates Mighty Haul, a solid waste processing and transfer station, located at 2702 Arts Street in New Orleans, Orleans Parish, Louisiana (the Site). The Respondent has not notified the Department of its processing and transfer station activities. The Respondent has been issued agency implemented EPA Identification No. LAR000102339.

II.

On or about March 25, 2021, the Department conducted an inspection at the above referenced Site in response to a citizen's complaint, and a subsequent file review on October 28, 2021, to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. The Respondent caused and/or allowed the unauthorized processing of solid waste, in violation of La. R.S. 30:2155, LAC 33:VII.315.C, and LAC 33:VII.509.A.1. Specifically, during the March 25, 2021 inspection, construction and demolition waste, municipal waste, and putrescible waste including popsicles and manure were processed by compacting and/or crushing at the Site. When questioned by the Department's inspector whether the Respondent has a permit for the processing of solid waste, a representative of the Respondent stated that the Respondent does not have such a permit, but that he would look into obtaining one. The Respondent's representative stated that solid waste generated from customers located off-site was transported to the Site, processed at the Site, and ultimately transported to River Birch Landfill. As of October 28, 2021, the Respondent has not secured a permit for the processing of solid waste.
- B. The Respondent failed to store containers in a manner to keep water out of the container and prevent leakage, in violation of LAC 33:VII.503.A.2.c. Specifically, liquids were observed leaking onto the ground from solid waste containers located across Arts Street from the Mighty Haul office building awaiting transportation to a disposal location. Additionally, agricultural waste was present within some of the solid waste transportation containers in the area. The containers, including the agricultural waste containers, were uncovered.
- C. The Respondent failed to notify the Office of Environmental Services, within thirty (30) days, of its activities as a solid waste transporter, in violation of LAC 33:VII.401.A. Specifically, the Respondent uses four (4) trucks to transport solid waste, none of which are currently authorized by the Department to transport solid waste. A representative of the Respondent stated the four (4) trucks pick-up solid waste from customer locations and then transport the solid waste to the Site and/or a landfill disposal location.
- D. The Respondent failed, upon detection of a release of used oil to the environment, to clean up and manage properly the released used oil, in violation of LAC 33:V.4013.E. Specifically, stained sediment was observed within the Northeast portion of the Site, below Interstate-10. Nearby containers containing used oil had contents dripping down the exteriors of the containers. Sheening was observed on storm water accumulated

nearby. A representative of the Respondent stated the stained sediment and contents within the nearby containers was used oil and leakage from a faulty engine, which was dismantled at the Site. On or about April 5, 2021 or April 13, 2021, the representative of the Respondent stated that he disposed of the oil-stained sediment at River Birch Landfill. The Department received an email from a representative of River Birch Landfill on August 9, 2021 stating that the landfill has not received a profiled waste from Mighty Haul since February 1, 2014.

- E. The Respondent failed to determine if generated solid waste is a hazard, in violation of LAC 33:V.1005.A. Specifically, stained sediment was observed within the Northeast portion of the Site, below Interstate-10. Nearby containers containing used oil had contents dripping down the exteriors of the containers. Sheening was observed on storm water accumulated nearby. A representative of the Respondent stated the stained sediment and contents within the nearby containers was used oil and leakage from a faulty engine, which was dismantled at the Site. The representative of the Respondent was informed that a hazardous waste determination needed to be made on the stained sediment in accordance with Department regulations prior to disposal. On or about April 5, 2021 or April 13, 2021, the representative of the Respondent stated that he disposed of the stained sediment at River Birch Landfill. The Department received an email from a representative of River Birch Landfill on August 9, 2021 stating that the landfill has not received a profiled waste from Mighty Haul since February 1, 2014. As of October 28, 2021, the Respondent has not provided a waste characterization or sampling data regarding a hazardous waste determination made on the stained sediment.
- F. The Respondent failed to clearly mark or label aboveground containers used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, a 55-gallon drum and smaller containers, all containing used oil, were present on Site and were unlabeled. A representative of the Respondent stated that the contents of the containers were oil from the faulty engine, which was dismantled at the Site. On or about April 13, 2021, the representative of the Respondent stated the 55-gallon drum and used oil containers were drained of oil, crushed, and disposed of at River Birch Landfill. The representative of the Respondent also stated that the used oil previously

stored within the 55-gallon drum and used oil containers was transported to a nearby Pep Boys location where the Respondent's used oil was added to Pep Boys' used oil containers for disposal. The Department received an email from a representative of River Birch Landfill on August 9, 2021 stating that the landfill has not received a profiled waste from Mighty Haul since February 1, 2014.

COMPLIANCE ORDER

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

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Solid Waste and Hazardous Waste Regulations.

II.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, receiving and processing regulated solid waste of any kind at the Site or any other site without first obtaining a standard permit or other authorization from the Department.

III.

To close, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, the Site by removing all solid waste of any kind to a permitted or authorized solid waste disposal facility. Documentation of proper disposal shall be submitted to the Enforcement Division within fifteen (15) days of completion.

IV.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure all containers storing solid waste keep out water and prevent leakage in accordance with LAC 33:VII.503.A.2.c.

V.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, transporting solid waste without authorization from the Department.

VI.

To submit to the Enforcement Division, within fifteen (15) days after receipt of this **COMPLIANCE ORDER**, documentation of proper disposal of the contaminated soil referenced in Findings of Fact Paragraph II.D.

VII.

To submit to the Enforcement Division, within fifteen (15) days after receipt of this **COMPLIANCE ORDER**, hazardous waste determination results on the wastes specified in Findings of the Fact Paragraph II.E.

VIII.

To submit to the Enforcement Division, within fifteen (15) days after receipt of this **COMPLIANCE ORDER**, documentation of proper disposal of the 55-gallon drum, used oil containers, and used oil previously stored within the 55-gallon drum and used oil containers referenced in Findings of Fact Paragraph II.F.

IX.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: **William Heintz**
Re: **Enforcement Tracking No. MM-CN-21-00411**
Agency Interest No. 79937

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** 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 right-hand corner of 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, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-21-00411
Agency Interest No. 79937

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 **COMPLIANCE ORDER** 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 (DAL) Procedural Rules. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** 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 **COMPLIANCE ORDER** 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 **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, 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 **COMPLIANCE ORDER** 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 William Heintz at (225) 219-9782 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 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 **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 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **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 Respondent may

offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. 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.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 3rd day of November, 2021.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

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: William Heintz

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE



Enforcement Tracking No.	MM-CN-21-00411	Contact Name	William Helntz
Agency Interest (AI) No.	79937	Contact Phone No.	(225) 219-9782
Alternate ID No.	LAR000102339		
Respondent:	MIGHTY HAUL, INC.	Facility Name:	Mighty Haul
	c/o Deidra P. Davis	Physical Location:	2702 Arts St.
	Agent for Service of Process		
	3900 North Causeway Blvd.	City, State, Zip:	New Orleans, LA 70122
	Suite 1470, One Lakeway Center	Parish:	Orleans
	Metairie, LA 70002		

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with IX of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 15 days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs VI, VII, VIII of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-CN-21-00411), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-CN-21-00411), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-CN-21-00411) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT		
<p><i>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.</i></p>		
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:		
<p>Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: William Heintz</p>		