

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**JEFF BAILEY
BAILEY BARK MATERIALS, INC**

AI # 20210

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

*** Settlement Tracking No.**

*** SA-MM-25-0054**

*** Enforcement Tracking Nos.**

*** MM-CN-10-00111**

*** MM-CN-11-00488**

*** MM-CN-15-01213**

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Jeff Bailey and Bailey Bark Materials, Inc (“Respondents”) 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

Respondents are an individual and a corporation that own and/or operate a solid waste processing and disposal facility located in Shreveport, Caddo Parish, Louisiana (“the Facility”).

II

On July 21, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-10-00111 (Exhibit 1).

On July 12, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-11-00488 (Exhibit 2).

On January 18, 2019, the Department issued to Respondent a Consolidated Compliance

Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-15-01213 (Exhibit 3).

III

Respondents deny they committed any violations or that they are liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondents, without making any admission of liability under state or federal statute or regulation, agree to pay, and the Department agrees to accept, a payment in the amount of FIFTEEN THOUSAND EIGHT HUNDRED ELEVEN AND 22/100 DOLLARS (\$15,811.22), of which Three Thousand Nine Hundred Forty-Two and 07/100 Dollars (\$3,942.07) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondents 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

Respondents further agree that the Department may consider the inspection report(s), permit record(s), the Consolidated Compliance Orders & Notices 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 Respondents, and in any such action Respondents shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondents' 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 Respondents hereby waive 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 Respondents have 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 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. Respondents have 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 thirty (30) 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. The Respondents shall provide their tax identification number when submitting payment. 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 or by Electronic Funds Transfer (EFT) to the Department of Environmental Quality, in accordance with instructions provided to Respondents by the Financial Services Division. 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.

JEFF BAILEY

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

BAILEY BARK MATERIALS, 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**
Courtney J. Burdette, Secretary

BY: _____
Jerrie "Jerry" Lang, 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: _____
Jerrie "Jerry" Lang, Assistant Secretary

BOBBY JINDAL
GOVERNOR

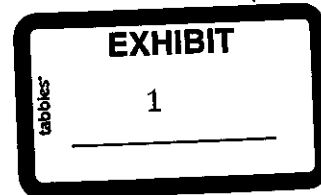


PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 21, 2010

CERTIFIED MAIL (7005 1820 0002 2365 9457/9501)
RETURN RECEIPT REQUESTED



JEFF BAILEY
3366 FM Road 2259
Nacogdoches, TX 75961

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-10-00111
AGENCY INTEREST NO. 20210**

Dear Sir:

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 **JEFF BAILEY (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 Craig Easley at (225) 219-3735.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Iturralde".

Lourdes Iturralde
Administrator
Enforcement Division

LI/KCE/kce
Alt ID No. LAD985174481
Attachment

c: Jeff Bailey
Bailey Bark Materials, Inc.
6015 St. Vincent Ave.
Shreveport, LA 71101

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

JEFF BAILEY
CADDO PARISH
ALT ID NO. LAD985174481

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

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* ENFORCEMENT TRACKING NO.
*
* MM-CN-10-00111
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* AGENCY INTEREST NO.
*
* 20210
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CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **JEFF BAILEY (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

1.

The Respondent owns and/or operates a solid waste processing and disposal facility known to the Department as Old HICA Steel Foundry/Kast Metals (the Site) located at 1431 West 59th Street, Shreveport, Caddo Parish, Louisiana. The Site is located within the boundaries of approximately eleven (11) acres of property that the Respondent purchased from Mr. Jack Mims in 2008. The Respondent does not have a permit or other authority to dispose of and/or process solid waste at the Site. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority to discharge wastes and/or other substances into the waters of the state.

II.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-07-0122** on or about July 9, 2007. The enforcement action addressed the following violations: 1) transporting solid waste to an unauthorized, non-permitted facility; and 2) operating an unauthorized, non-permitted solid waste processing facility. The Respondent did not appeal **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-07-0122**; therefore, the action is final and not subject to further review.

III.

On or about September 23, 2009, the Department conducted an inspection of the Site to determine the degree of compliance with the Solid Waste Regulations. The inspection and a file review conducted by the Department on or about February 24, 2010, revealed the following violations:

- A. The Respondent deposited and/or allowed the deposit of regulated solid waste at the Site without a permit or other authorization, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, the Respondent deposited and/or allowed the deposit of construction and demolition debris.
- B. The Respondent processed and/or allowed the processing of regulated solid waste at the Site without a permit or other authorization, in violation of La. R.S. 30:2155, LAC 33:VII.315.C and **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-07-0122**. Specifically, the Respondent processed and/or allowed the processing of creosote treated railroad cross-ties and regulated woodwaste at the site without a permit or other authorization.

IV.

A file review conducted by the Department on or about May 11, 2010, revealed that Respondent's operations at the Site are classified under Standard Industrial Classification (SIC) code number 2499. The operations at the Site are industrial activity subject to permitting, and the Respondent is required to make 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 complete NOI and obtain permit coverage is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2511.C.1.

V.

During its September 23, 2009, inspection, the Department observed what appeared to be waste casting sand and/or spent sand blasting media. The waste sands were likely abandoned at the Site by one or more of the foundry/steel production facilities that had operated at the Site several years prior to the Respondent taking ownership of the property.

COMPLIANCE ORDER

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

I.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind at the Site or any other site not permitted to receive such waste.

II.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, processing solid waste at the Site or any other site not permitted to process waste until such time the proper authority and/or permit is granted by the Department.

III.

To submit, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, a completed LPDES Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activities to the Permits Division. The completed NOI must follow all procedures and guidelines set forth in LAC 33:IX.Subpart II. A copy of the NOI must also be submitted to the Enforcement Division.

IV.

To prepare and implement, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, a Storm Water Pollution Prevention Plan (SWP³) following the requirement specified in Part IV and VI, Section N.4 of the LPDES Storm Multi-Sector General Permit for Industrial Activities.

V.

To complete closure of the Site, within ninety (90) days of receipt of this **COMPLIANCE ORDER**, by removal of all deposited regulated solid waste to a permitted solid waste disposal facility or other authorized facility. Additionally, the Respondent shall obtain and

submit to the Office of Environmental Compliance, Enforcement Division, documents verifying proper disposal of all regulated solid and/or hazardous wastes addressed under this **COMPLIANCE ORDER**. Additionally, during its inspection, the Department observed what appeared to be waste casting sand and/or spent sand blasting media at the Site. This waste has the potential to be hazardous waste. The Respondent must ensure that a proper hazardous waste determination is performed for this material prior to removal for offsite disposal.

VI.

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

VII.

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
Attention: Craig Easley
Enforcement Tracking No. MM-CN-10-00111
Agency Interest No. 20210

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-10-00111
Agency Interest No. 20210

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 Department's Rules of Procedure. 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 Craig Easley at (225) 219-3735 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

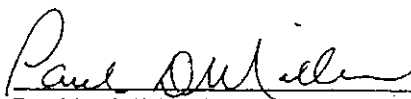
III.

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.

IV.

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

Baton Rouge, Louisiana, this 21st day of July, 2010.



Paul D. Miller, P.E.

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: Leigh Gauthreaux

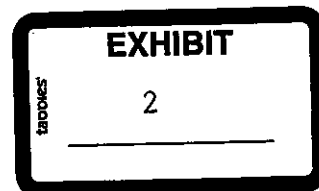
BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 12, 2012



CERTIFIED MAIL (7006 0810 0003 0347 0630)
RETURN RECEIPT REQUESTED

JEFF BAILEY
3366 FM Road 2259
Nacogdoches, TX 75961

RE: **CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY**
ENFORCEMENT TRACKING NO. MM-CN-11-00488
AGENCY INTEREST NO. 20210

Dear Sir:

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 **JEFF BAILEY (RESPONDENT)** for the violations described herein.

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 Craig Easley at (225) 219-3735.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage
Administrator
Enforcement Division

CJC/KCE/kce
Alt ID No. LAD041224932
Attachment

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

IN THE MATTER OF

**JEFF BAILEY
CADDO PARISH
ALT ID NO. LAD041224932**

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

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ENFORCEMENT TRACKING NO.

MM-CN-11-00488

AGENCY INTEREST NO.

20210

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **JEFF BAILEY (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 a solid waste processing and disposal facility known to the Department as Old HICA Steel Foundry/Kast Metals (the facility) located at 1431 West 59th Street, Shreveport, Caddo Parish, Louisiana. The facility is located within the boundaries of approximately eleven (11) acres of property that the Respondent purchased from Mr. Jack Mims in 2008. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or other authority to discharge waste and/or other substances from the facility into waters of the state. The Respondent does not currently have an air permit for the facility.

II.

The Respondent owns and/or operates two (2) facilities in Shreveport, Louisiana: 1) the above-referenced facility located on 1431 West 59th Street (Agency Interest No. 20210); and 2) a facility located at 6015 St. Vincent Avenue (Agency Interest No. 160017). The Respondent leases a portion of its West 59th Street facility to Wood Energy Group, Inc. (WEG) for the processing of solid waste creosote-treated railroad crossties into boiler fuel. The portion of the Respondent's West 59th Street facility leased to WEG has been assigned Agency Interest No. 173213. In 2009, the Respondent moved its wood grinding operations from its St. Vincent Avenue facility to its West 59th Street facility. In February 2010, the Respondent and WEG entered into a contract under which both the Respondent and WEG would process creosote-treated crossties that had been removed from rail service into boiler fuel. Under the contract, WEG procures the crossties from railroad companies and these crossties are transported to and stockpiled at the Respondent's West 59th street facility. Under the contract, the Respondent and WEG both operate their own grinders and draw down from the stockpile of solid waste railroad crossties in order to process the material into boiler fuel for subsequent re-sale. At its West 59th Street facility, the Respondent also produces wood strips/chips from a feedstock comprised of newly cut trees and uncontaminated recycled woodwastes that are either utilized for: 1) mulch/compost; 2) wood product manufacturing; or 3) burned for energy recovery.

III.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, SE-CN-07-0122**, on or about July 9, 2007. The enforcement action documented the following violations at the Respondent's West 59th Street facility: 1) transporting regulated solid waste (i.e., regulated woodwaste from the manufacture of cabinet and counter tops that included particle board and glued formica surfaces) to an unauthorized, non-permitted facility; and 2) operating an unauthorized, non-permitted solid waste processing facility. Subsequent Department inspections have revealed that the Respondent has ceased the acceptance and processing of these specific regulated solid wastes at the above-referenced facility.

IV.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111**, on or about July 21, 2010. The enforcement action documented the following violations at the Respondent's West 59th Street facility: 1) unauthorized, non-permitted disposal of regulated solid waste (i.e., construction and demolition debris); 2) operating an

unauthorized, non-permitted solid waste processing facility (i.e., processing of creosote-treated railroad crossties); and 3) failure to obtain permit coverage under the LPDES Multi-Sector General Permit for Storm Water Associated with Industrial Activities. The Respondent did not appeal **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111**; therefore, the action is final and is not subject to further review. In response to the enforcement action, the Respondent submitted a Solid Waste Beneficial Use Application to the Department's Waste Permits Division on or about March 31, 2011. The application is currently under Department review. As of May 10, 2011, the Respondent has failed to submit an LPDES Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activities or to obtain coverage under the LPDES Multi-Sector General Permit for the above-referenced facility. The Respondent did obtain a LPDES Multi-Sector General Permit No. LAR05P225 for its facility located at 6015 St. Vincent Avenue, Shreveport, Caddo Parish, Louisiana (Agency Interest No. 160017).

V.

The Respondent was issued **COMPLIANCE ORDER, AE-C-10-01560**, on or about February 23, 2011. The enforcement action cited the Respondent for failing to take all reasonable precautions to prevent particulate matter (i.e., dust emissions) from becoming airborne and going off-site. The enforcement action also included an order requiring the Respondent to submit documentation (e.g., calculations and records of operations) to the Department's Air Permits Division necessary to demonstrate the above-referenced facility's compliance with the exemption specified in La. R.S. 30:2054(B)(2)(ix) or to otherwise submit an appropriate air permit application. The Respondent determined that the activities conducted at its West 59th Street facility would require a Minor Source Air Permit. However, the Respondent submitted a Minor Source Air Permit Application for its 6015 St. Vincent Avenue facility on or about March 25, 2011. The Department issued Minor Source Air Permit No. 0500-00486-00 for the Respondent's St. Vincent facility on June 3, 2011.

VI.

On or about March 23, 2011, the Department conducted an inspection of the Respondent's West 59th Street facility to determine whether construction and demolition debris observed during previous Department inspections contained regulated asbestos-containing material (RACM). During the course of this inspection, the inspector collected suspect asbestos samples of floor tile with mastic and ceiling material from the building near the southeast corner of the cross-tie yard. The inspector also collected suspect asbestos samples of floor tile with mastic from a slab located near West 59th Street where a

building was once located. Mr. Jeff Bailey informed the inspector that the building that was located near West 59th Street was demolished by Bailey Bark Materials, Inc., and there was no asbestos inspection conducted nor asbestos abatement performed prior to demolition activities. The suspect asbestos samples were analyzed by EMSL Analytical, Inc. on or about March 30, 2011. The results of the analysis confirmed that the floor tile and mastic samples collected from the southeast corner of the cross-tie yard and near West 59th Street contained greater than one (1) percent asbestos.

VII.

On or about May 9, 2012, the Department conducted a follow-up inspection of the Respondent's West 59th Street facility. During the inspection, it was revealed that WEG had terminated its lease with the Respondent and the contract described in Findings of Fact Paragraph II. The Respondent's Solid Waste Beneficial Use Application submitted to the Department's Waste Permits Division on or about March 31, 2011, was based upon this contract under which WEG procured creosote-treated railroad crossties removed from service for subsequent processing at the Respondent's West 59th Street facility (as described in Findings of Fact Paragraph II). As of June 19, 2012, the Respondent has not submitted any information to the Department regarding any new contract(s) under which it would independently procure crossties for processing at its West 59th Street facility for subsequent re-sale as boiler fuel.

VIII.

On or about September 23, 2009, February 21 2011, and May 9, 2012, the Department conducted inspections at the above-referenced facilities to determine compliance with the Louisiana Solid Waste, Air Quality, and Water Quality Regulations and **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** Enforcement Tracking No. **MM-CN-10-00111** issued on July 21, 2010. The inspections and a subsequent file review conducted by the Department on or about May 12, 2012, revealed the following violations:

- A. The Respondent failed to thoroughly inspect buildings located at its West 59th Street facility where demolition operations occurred for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material (ACM) prior to demolition. This is a violation of LAC 33:III.5151.F.1 and La R.S. 30:2057(A)(2).
- B. The owner or operator failed to provide the Office of Environmental Services with typed notice of intent to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation, prior to initiating demolition or renovation

- activities. The Respondent's failure to notify the Department prior to initiating demolition activities is a violation of LAC 33:III.5151.F.2.a and La. R.S. 30:2057(A)(2).
- C. An individual or company contracted to perform a demolition or renovation activity which disturbs RACM must be recognized by the Louisiana Board for Contractors to perform asbestos abatement. The Respondent's failure to contract with a licensed individual or company to perform asbestos abatement is a violation of LAC 33:III.F.1.f and La. R.S. 30:2057(A)(2).
- D. The Respondent commenced operations at the facility in February 2010. In March 2011, the Respondent determined that the activities conducted at its West 59th Street facility would require a Minor Source Air Permit. However, the Respondent submitted a Minor Source Air Permit Application for its 6015 St. Vincent Avenue facility on or about March 25, 2011. The Department issued Minor Source Air Permit No. 0500-00486-00 for the Respondent's St. Vincent facility on June 3, 2011. The Respondent's operation of its West 59th Street since February 2010 without an air permit is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).
- E. The Respondent failed to comply with a previously issued Compliance Order. Specifically, **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111**, was issued to the Respondent on or about July 21, 2010. The Respondent failed to remove all deposited construction and demolition debris from the facility within ninety (90) days of the effective of the aforementioned enforcement action. This failure to comply is a violation of La. R.S. 30:2155 and LAC 33:V.315.C.
- F. A file review conducted by the Department on or about May 12, 2012, revealed that the Respondent failed to comply with **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111** issued to the Respondent on or about July 21, 2010. The Respondent's operations at the above-referenced facility are classified under Standard industrial Classification (SIC) code number 2499. No steps were taken to achieve and maintain compliance of the cited violations by obtaining permit coverage for an LPDES Storm Water Multi-Sector General Permit for Industrial Activities. This failure to comply is a violation of La. R.S. 30:2076(A)(3) and LAC

33:IX.2511.C.1, and **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111.**

COMPLIANCE ORDER

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

I.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a completed LPDES NOI for Storm Water Discharges Associated with Industrial Activities to the Permits Division for its West 59th Street facility. The completed LPDES NOI must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25. A copy of the NOI shall also be submitted to the Enforcement Division.

II.

To prepare, implement, and submit, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, a Storm Water Pollution Prevention Plan (SWP3) for its West 59th Street facility as specified in Part IV and VI, Section N.4 of the LPDES Storm Multi-Sector General Permit for Industrial Activities.

III

To remove, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all regulated solid waste and/or asbestos-containing waste material (ACWM) deposited at the Respondent's West 59th Street facility to a permitted solid waste disposal facility while maintaining compliance with the Solid Waste and Air Quality Regulations, including but not limited to LAC 33:III.5151. Copies of all disposal receipts, including but not limited to asbestos disposal verification forms (ADVF), shall be submitted to the Enforcement Division within thirty (30) days of the completion of waste disposal activities.

IV.

To ensure that the RACM is adequately wet during wrecking operations and no discharge of visible emissions to the outside air are present during collection, processing, packaging, or transporting of any ACWM, in accordance with LAC 33:III.5151.F.3.i and LAC 33:III.5151.J.1.

V.

To use an individual or company that is recognized by the Louisiana Licensing Board for Contractors to perform demolition activities at the Site, in accordance with LAC 33:III.5151.F.1.f.

VI.

To use personnel accredited by the Department, including but limited to, Asbestos Abatement Workers and Asbestos Abatement Contractor/Supervisor, in accordance with LAC 33:III.5151.F.3.h and LAC 33:III.5151.P.2.b.

VII.

To remove all loose debris in and adjacent to the immediate work area whether or not it is RACM within sixty (60) days after receipt of this **COMPLIANCE ORDER**, in accordance with LAC 33:III.5151.F.3.i.i.

VIII.

To submit to the Permit Support Division, AAC-2 Form as required by LAC 33:III.5151.F.2. The Respondent shall submit a copy of the AAC-2 Form to the Enforcement Division.

IX.

To apply for, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, a Minor Source Air Permit for its West 59th Street facility.

X.

To submit, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, an updated Solid Waste Beneficial Use Application to the Department's Waste Permits Division that includes information regarding any newly finalized contracts under which it will procure and process railroad crossties into boiler fuel for subsequent re-sale. As noted in Findings of Fact Paragraphs VII, the contract referenced in the Respondent's Solid Waste Beneficial Use Application dated May 9, 2011, was terminated by WEG in January 2012.

XI.

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

XII.

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: **Craig Easley**
Re: **Enforcement Tracking No. MM-CN-11-00488**
Agency Interest No. 20210

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-11-00488**
Agency Interest No. 20210

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 Department's Rules of Procedure. 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 Craig Easley at (225) 219-3735 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

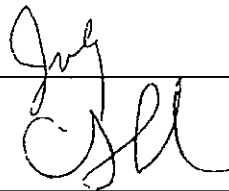
III.

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.

IV.

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

Baton Rouge, Louisiana, this 12 day of July, 2012.


Cheryl Sonnier Nolan
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: Craig Easley

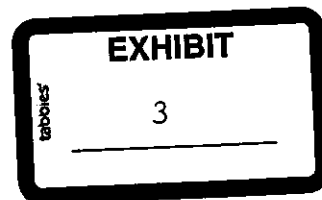
JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

January 18, 2019



CERTIFIED MAIL 7012 3460 0001 0423 4991
RETURN RECEIPT REQUESTED

BAILEY BARK MATERIALS, INC.

c/o Jeffrey C. Bailey
Agent for Service of Process
6015 St. Vincent Avenue
Shreveport, LA 71106

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-15-01213
AGENCY INTEREST NO. 20210**

Dear Sir:

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 **JEFF BAILEY (RESPONDENT)** for the violations described herein.

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 Craig Easley at (225) 219-3735.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena P. Cage".

Celena P. Cage
Administrator
Enforcement Division

CJC/KCE/jap/ro
Alt ID No. 0500-00663; LA0126896
Attachment

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

IN THE MATTER OF

**BAILEY BARK MATERIALS, INC.
CADDO PARISH
ALT ID NO. 0500-00663-01; LA0126896**

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

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ENFORCEMENT TRACKING NO.

MM-CN-15-01213

AGENCY INTEREST NO.

20210

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BAILEY BARK MATERIALS, 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 a solid waste processing and disposal facility known to the Department as Old HICA Steel Foundry/Kast Metals (the facility) located at 1431 West 59th Street, in Shreveport, Caddo Parish, Louisiana. The facility is located within the boundaries of approximately eleven (11) acres of property that the Respondent purchased from Mr. Jack Mims in 2008. On or about October 10, 2013, the Department received from the Respondent an initial Louisiana Pollutant Discharge Elimination System (LPDES) permit application to discharge wastewater from industrial facilities. The Department issued to the Respondent LPDES permit LA0126896, with an effective date of August 1, 2014, and an expiration date of July 31, 2019. Under the terms and conditions of LPDES permit LA0126896, the Respondent is authorized to discharge stormwater runoff to local drainage, thence into the St. Vincent Ave. storm drain, thence into Brush Bayou, thence into

Boggy Bayou, waters of the state. The Respondent submitted to the Department, a LPDES permit modification application dated March 11, 2016, that included additional outfalls for the intermittent discharge of stormwater runoff at the site. A draft modified LPDES permit was public noticed to add three additional outfalls for the intermittent discharge of stormwater runoff, changing the STORET code for Oil and Grease for Outfalls 001 and 002 and in the Narrative Requirements, and update the outfall locations for Outfalls 001 and 002. A final LPDES permit modification has not been issued by the Department. The Respondent operates or has operated under the following Synthetic Minor Air Permits:

Permit Number	Issue Date	Expiration Date
0500-00486-00	07/26/2011	N/A
0500-00663-00	07/30/2012	N/A
0500-00663-01	12/15/2014	12/15/2024
Variance for the use of temporary Caterpillar grinder while permitted grinder (GEN 2) is out for repair	06/13/2017	12/13/2017

The permit issued on July 26, 2011 was inadvertently assigned Permit No. 0500-00486-00 instead of Permit No. 0500-00663-00. Permit No. 0500-00486-00 was administratively amended and Permit No. 0500-00663-00 was issued on July 30, 2012.

II.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, SE-CN-07-0122**, on or about July 9, 2007. The enforcement action documented the following violations at the Respondent's West 59th Street facility: 1) transporting regulated solid waste (i.e., regulated woodwaste from the manufacture of cabinet and counter tops that included particle board and glued formica surfaces) to an unauthorized, non-permitted facility; and 2) operating an unauthorized, non-permitted solid waste processing facility. Subsequent Department inspections have revealed that the Respondent has ceased the acceptance and processing of these specific regulated solid wastes at the above-referenced facility.

III.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111**, on or about July 21, 2010. The enforcement action documented the following violations at the Respondent's West 59th Street facility: 1) unauthorized, non-

permitted disposal of regulated solid waste (i.e., construction and demolition debris); 2) operating an unauthorized, non-permitted solid waste processing facility (i.e., processing of creosote-treated railroad crossties); and 3) failure to obtain permit coverage under the LPDES Multi-Sector General Permit for Storm Water Associated with Industrial Activities. The Respondent did not appeal **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, MM-CN-10-00111**; therefore, the action is final and is not subject to further review. In response to the enforcement action, the Respondent submitted a Solid Waste Beneficial Use Application to the Department's Waste Permits Division on or about March 31, 2011. The Respondent's Beneficial Use Plan was approved by the Department's Waste Permits Division on March 31, 2017.

IV.

The Respondent was issued **COMPLIANCE ORDER, AE-C-10-01560**, on or about February 23, 2011. The enforcement action cited the Respondent for failing to take all reasonable precautions to prevent particulate matter (i.e., dust emissions) from becoming airborne and going off-site. The enforcement action also ordered the Respondent to submit documentation (e.g., calculations and records of operations) to the Department's Air Permits Division necessary to demonstrate the above-referenced facility's compliance with the air permitting exemption specified in La. R.S. 30:2054(B)(2)(ix) or to otherwise submit an appropriate air permit application. The Respondent determined that the activities conducted at its West 59th Street facility (AI No. 20210) would require a Minor Source Air Permit. The Department inadvertently issued Air Permit No. 0500-00486-00 for the Respondent's St. Vincent facility (AI No. 160017) on July 26, 2011, which was subsequently administratively amended. On or about September 13, 2011, the Respondent submitted an air permit application for West 59th Street facility and Permit No. 0500-00663-00 was issued to the Respondent on July 30, 2012. On or about June 8, 2017, the Respondent submitted a variance request to use a temporary grinder to process the railroad cross tie material while the existing permitted grinder (GEN 2) was being repaired. The Department granted the temporary variance request on June 3, 2017, and it expired on December 13, 2017. On or about November 15, 2015, April 6, 2016, and August 4, 2017, the Respondent submitted applications for air permit modification for the West 59th Street facility.

V.

The Respondent was issued **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY, MM-CN-11-00488**, on or about July 12, 2012. The enforcement action documented the following violations at the Respondent's West 59th Street facility: 1) failure to inspect

buildings for asbestos prior to demolition; 2) failure to notify the Department (using Form AAC-2) prior to initiating demolition activities 3) failure to contract with a licensed individual or company to perform asbestos abatement; 4) operation without a required air permit; 5) unauthorized disposal of construction and demolition debris; 6) and failure to obtain a requisite LPDES permit.

VI.

On or about the August 14, 2015, the Department conducted an inspection of the Respondent's facility to determine compliance with the Act and the Water Quality Regulations. A subsequent file review was conducted on or about December 8, 2018. The inspection and file review revealed the following violations:

- A. The Respondent failed to comply with LPDES permit LA0126896. Specifically, the Respondent failed to submit quarterly Discharge Monitoring Reports (DMRs) for the monitoring periods from August 1, 2014 to March 31, 2016, for Outfalls 001 and 002. Each failure to submit DMRs is a violation of LPDES Permit LA0126896 (Narrative Requirements N-1 (Outfalls 001 and 002), pages 2 and 4 of 7; Submittal/Action Requirements S-1 (Outfalls 001 and 002), pages 2 and 4 of 7; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a. Subsequent to the inspection, the Respondent submitted the DMRs for the Outfalls under cover letters dated May 18, 2016, June 13, 2016, and June 14, 2016.
- B. The Respondent failed to conduct effluent sampling for the parameters specified for Outfalls 001 and 002 on a quarterly basis as required by LPDES Permit LA0126896. Specifically, a representative of the Respondent stated that sampling was not conducted and no records were provided for any sampling events. Additionally, DMRs submitted subsequent to the inspection covering the time period of August 2014 to December 2015, noted that parameter sampling was not conducted. Each failure to sample is a violation of LPDES Permit LA0126896 (Effluent Limitations and Monitoring Requirements (Outfalls 001 and 002) and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A. In the November 2015 response to the inspection, the Respondent indicated that

arrangements were made with Ana-Lab Corporation effective November 18, 2015, to conduct sampling at the site and perform analysis. Beginning with the January 2016 through March 31, 2016, monitoring period, DMRs reported sampling results.

- C. The Respondent failed to implement the Storm Water Pollution Prevention Plan (SWPPP). Specifically, debris was noted on the road and entering the storm drain system. Debris noted included wood chips from wood waste, wood chips from creosote, and general litter including metal, plastic, and paper. The inspection also revealed that only the pollution prevention team lead was listed in the SWPPP, and no other team members were identified. The failure to implement the SWPPP is a violation of LPDES Permit LA0126896 (Narrative Requirement N-6, page 5 of 7 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A. The November 2015 response to the inspection noted that weekly monitoring of the site boundary was added to the SWPPP housekeeping procedures (Best Management Practices) to prevent general trash and debris from accumulating and discharging from the site. Annual training of employees on the SWPPP was set to take place every December. The Respondent submitted an addendum dated May 20, 2016, to the original November 2015 response to the inspection. The addendum indicated that the use of silt fencing would be impracticable. Photos of cleaned curbing and storm drains were included in the response.
- D. The Respondent failed to submit all relevant facts in the LPDES permit application for LPDES Permit LA0126896. Specifically, in addition to Outfalls 001 and 002 listed in the permit application, the inspection revealed that the facility had three (3) other outfalls at the site. Two (2) of the outfalls were included in the SWPPP and one (1) was identified during the inspection of the site. The locations of the three (3) outfalls are as follows: (1) at the northeast corner of the property prior to entering the storm drain; (2) at the culvert in the ditch near the southeast corner at the railroad tracks next to the rail car loading area; and (3) the southwest corner near the rail car loading

area at the end of the railroad tracks. The failure to submit all relevant facts in the LPDES permit application is a violation of LPDES Permit LA0126896 (Standard Conditions for LPDES Permits, Sections A.2 and A.6.b), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.8. The Respondent submitted to the Department, a LPDES permit modification application dated March 11, 2016, which listed all of the outfalls at the site.

- E. The Respondent caused and/or allowed the discharge of wastewater from a source or location not authorized by the permit. Specifically, as mentioned in the aforementioned paragraph, the inspection revealed that the facility has three (3) other outfalls at the site which were not included in the LPDES permit application and therefore, were not authorized under LPDES Permit LA0126896. The unauthorized discharges are a violation of La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D.

VII.

On or about August 14, 2015, the Department conducted an inspection of the Respondent's facility to determine compliance with the Act and the Air Quality Regulations. At the time of the inspection, the facility was permitted for three (3) grinders: one (1) 430 hp Doppstadt engine (EQT 0009), one (1) 800 hp Diamond Z engine (EQT 0010), and one (1) 1000 hp Vermeer engine (EQT 0011) associated with the Vermeer HG 8000 tub grinder (EQT 0012) under Permit No. 0500-00663-01. During the course of the inspection, the inspector observed that the Respondent had onsite, two (2) 500-gallon diesel storage tanks and six (6) grinders: two (2) 430 hp Doppstadt engines, one (1) 800 hp Diamond Z engine, one (1) Vermeer TG 7000 grinder with a 1000 hp Vermeer engine, one (1) 1000 hp Rotochopper, and one (1) 1000 hp Morbark, but only the 1000 hp Rotochopper was in operation. Three (3) of the grinders (one 430 hp Doppstadt, one Vermeer TG 7000 grinder, and one 1000 hp Morbark) and the two (2) storage tanks were not listed in the facility's air permit as emission sources. The inspector also reported the following:

1. The Respondent failed to demonstrate compliance with Specific Requirement Nos. 16, 42, and 66 of Air Permit No. 0500-00663-01. Specifically, the Respondent had no documentation to demonstrate initial performance tests were conducted as required for EQT Nos. 0009, 0010, and 0011.

2. The Respondent had not submitted the facility's total hours of operation for each engine (EQT Nos. 0009, 0010, and 0011) and the total annual nitrogen oxide (NOx) emission report by the March 31 deadline of each preceding calendar year as required by Specific Requirement Nos. 37, 61, 88, and 113 of Air Permit No. 0500-00663-01.
3. The Respondent's Best Practical Housekeeping Plan for the facility was not available onsite for review by the inspector as required by Specific Requirement 108 of Air Permit No. 0500-0663-01.

VIII.

On or about January 25, 2017, a full compliance evaluation air quality inspection was conducted at the facility. During the inspection, the facility was operating under Permit No. 0500-00663-01. The inspector observed the following engines onsite that were not listed in the air permit as emission sources: one (1) Vermeer TG7000 grinder with 1000 hp Vermeer engine, one (1) 430 hp Droppstadt engine, and one (1) 1000 hp Morbark. During the follow-up inspection on or about July 10, 2017, the Respondent's representative informed the inspector that the Vermeer TG7000 had been in operation for four to five years, and was in operation at the time of the follow-up inspection. The Vermeer HG 8000 was also observed onsite. The 1000 hp Morbark last ran on February 1, 2017 and was no longer in use at the time of the July 10, 2017 follow-up inspection.

IX.

On or November 30, 2015 and April 11, 2016, applications for air permit modification were received by the Department. In both applications, the following modifications were requested:

- A. Remove Diamond Z Tub grinder and its 800-hp generator; replace with Droppstadt DW 3060-K grinder with 430-hp generator.
- B. Remove Vermeer HG8000 grinder; replace with Vermeer TG7000 tub grinder and utilize the 1000-hp generator previously associated with Vermeer HG8000.
- C. Add two (2) portable grinders: Rotochopper B66 with 1000-hp generator and Morbark Wood Hog 7600 with 1000-hp generator.

On August 4, 2017, the Respondent submitted an updated air permit application that superseded the applications submitted on November 30, 2015 and April 11, 2016. The Respondent requested to delete all current permitted emission sources and add the following:

Source ID	Source Description
1-17	Truck Unloading emissions from intact greenwood
2-17	Truck unloading emissions from intact rail road ties
3-17	Truck unloading emissions from imported mulch
4-17	Vermeer tub grinder emissions
5-17	Doppstadt tub grinder emissions
6-17	Peterson tub grinder emissions
7-17	Vermeer 1000 hp engine emissions
8-17	Doppstadt 430 hp engine emissions
9-17	Peterson 1000 hp engine emissions
10-17	Vermeer conveyor fugitives
11-17	Doppstadt conveyor fugitives
12-17	Peterson conveyor fugitives
13-17	Shredded wood stockpile emissions
14-17	Shredded railroad ties stockpile emissions
15-17	Colored mulch stockpile emissions
16-17	Truck loading of shredded wood
17-17	Truck loading of shredded railroad ties
18-17	Truck loading of colored mulch
19-17	500-gallon diesel tank
20-17	500-gallon diesel tank

X.

On or about August 14, 2015, January 25, 2017, and July 10, 2017, inspections of the Respondent's facility were performed to determine the degree of compliance with the Act and the Air Quality Regulations. Subsequent file reviews were conducted on July 7, 2017, August 15, 2017, August 17, 2017, and October 2, 2018. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspections and file reviews:

- A. The Respondent's failure to submit a permit application to the Department prior to operation of the engines and diesel storage tanks specified in Paragraphs VIII and IX of the Findings of Fact portion of this enforcement action as emission sources, is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).
- B. The Respondent's unauthorized operation of each emission source, specified in Paragraphs VIII and IX of the Findings of Fact portion of this enforcement action, is a violation of LAC 33:III.501.C.2,

La. R.S. 30:2057(A)(1), and 30:2057(A)(2). To date, a modified permit has not been issued.

- C. The failure to conduct an initial performance test on each engine (EQT 0009, EQT 0010, and EQT 0011) is a violation of Specific Requirement Nos. 16, 42, and 66 of Air Permit No. 0500-00663-01, LAC 33:III.501.C.4, 40 CFR 60.4211(e)(2), and La. R.S. 30:2057(A)(2). Correspondence dated May 11, 2017 stated a test was completed on two (2) operating engines (EQT 0009 and EQT 0011) at the facility on March 13-14, 2017.
- D. The August 14, 2015, January 25, 2017, and July 10, 2017, inspections noted the Respondent's failure to timely submit to the Office of Environmental Compliance the reports for total hours of operation for each engine, and the total annual NOx emissions due annually by March 31 since the air permit was issued, is a violation of Specific Requirement Nos. 37, 61, 88, and 113 of Air Permit No. 0500-00663-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated November 16, 2015, the Respondent stated that an electronic operating time log has been created to record operation hours for each applicable engine and employees will submit the annual operating report as required. Correspondence dated March 28, 2017, included the facility's 2016 hours of operation and calculated total annual NOx emission using the latest stack test data. To date, the Respondent has not submitted the facility's 2017 hours of operation and calculated total annual NOx emission.
- E. During the August 14, 2015, inspection the Respondent failed to develop a written plan for housekeeping and maintenance practices that places emphasis on the reduction of volatile organic compound emissions from the facility is a violation Specific Requirement 108 of Air Permit No. 0500-00663-01, LAC 33:III.2113.A.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2). During the January 25, 2017 inspection, the

housekeeping plan was available onsite, with a revision date of February 22, 2016.

COMPLIANCE ORDER

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

I.

To submit to the Enforcement Division, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, a documentation demonstrating that a stack test has been conducted for all engines including EQT 0010 in accordance with Specific Requirement Nos. 16, 42, and 66 of Air Permit No. 0500-00663-01 and LAC 33:III.501.C.4.

II.

To submit to the Enforcement Division, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, the facility's 2017 annual operating report including the total annual NOx emissions and a documentation demonstrating that the 2017 total hours of operation for each engine (EQT 0009, EQT 0010, and EQT 0011) have been recorded in accordance with Specific Requirement Nos. 37, 61, 88, and 113 of Air Permit No. 0500-00663-01 and LAC 33:III.501.C.4.

III

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, any unauthorized discharges from the Respondent's facility to waters of the state. The Respondent shall not discharge pollutants to waters of the state prior to obtaining permit coverage or other authorization from the Department.

IV.

To submit a completed NetDMR Subscriber Agreement to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The Subscriber Agreement shall be signed and dated with an original signature and submitted to the Enforcement Division. (NetDMR is accessed through: www.epa.gov/netdmr. For assistance establishing and maintaining a NetDMR account or for NetDMR training, see attached instructions or contact the Permit Compliance Unit at deqnetdmr@la.gov.)

V.

To submit DMRs and associated reports electronically using NetDMR beginning with the first monitoring period after approval of the NetDMR Subscriber Agreement unless otherwise notified in writing by the Department.

VI.

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

VII.

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: Craig Easley
Re: Enforcement Tracking No. MM-CN-15-01213
Agency Interest No. 20210

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-15-01213
Agency Interest No. 20210

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 Craig Easley at (225) 219-3735 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

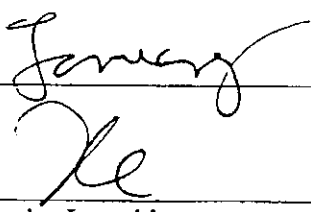
III.

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.

IV.

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

Baton Rouge, Louisiana, this 18th day of January, 2019.



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: Craig Easley



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

CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE

Enforcement Tracking No.	MM-CN-15-01213	Contact Name	Craig Easley
Agency Interest (AI) No.	20210	Contact Phone No.	(225) 219-3735
Alternate ID No.	0500-00663; LA0126896		
Respondent:	Bailey Bark Materials, Inc.	Facility Name:	Bailey Mark Materials-Shreveport
	c/o Jeffrey C. Bailey	Physical Location:	1431 West 59 th Street
	Agent for Service of Process		
	6015 St. Vincent Avenue	City, State, Zip:	Shreveport, LA 71106
	Shreveport, LA 71106	Parish:	Caddo

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A documentation demonstrating that a stack test has been conducted was submitted to the Department within 60 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph I of the "Order" portion of the COMPLIANCE ORDER.		
The facility's 2017 annual operating report including the total annual NOx emissions, and a documentation demonstrating that the 2017 total hours of operation for each engine (EQT 0009, EQT 0010, and EQT 0011) have been recorded was submitted to the Department within 60 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
A completed NetDMR Subscriber Agreement was submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph IV of the "Order" portion of the COMPLIANCE ORDER.		
DMRs and associated reports were submitted to the Department in accordance with Paragraph V of the "Order" portion of the COMPLIANCE ORDER.		
A written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken was submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph VII 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 NOTICE OF POTENTIAL PENALTY (MM-CN-15-01213), 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 (MM-CN-15-01213), 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. • Monetary component = \$ _____

<ul style="list-style-type: none"> • 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. 		
The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (MM-CN-15-01213) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.		
CERTIFICATION STATEMENT		
<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>		
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: Craig Easley		