

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

HERITAGE-CRYSTAL CLEAN, LLC

AI # 11270
146557
101766

* Settlement Tracking No.
* SA-HE-11-0007
*
* Enforcement Tracking No.
* HE-CN-06-0221
* HE-CN-06-0345
* HE-PP-06-0367
* HE-CN-09-0608
*
* Docket No. 2008-5090-EQ
* 2008-5091-EQ
* 2009-10581-EQ

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

SETTLEMENT

The following Settlement is hereby agreed to between Heritage-Crystal Clean, LLC (Respondent) and the Louisiana Department of Environmental Quality (Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (the Act).

I

Respondent is a limited liability company that owns and/or operates three (3) hazardous waste and used oil transfer facilities in the state of the Louisiana during the operative time period. The Shreveport facility (AI#11270) is located at 3450 Hollywood Avenue in Shreveport, Caddo Parish, Louisiana. The Gonzales facility (AI#101766) was located at 9346 Ashland Road in Gonzales, Ascension Parish, Louisiana. The Bossier facility (AI#146557) is located at 1053 Jeter Street in Bossier City, Bossier Parish, Louisiana.

II

This Settlement Agreement is being entered into by the Respondent and Department to settle the following four (4) enforcement matters:

A. Enforcement No. HE-CN-06-0221:

On February 9, 2007, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-06-0221, which was based upon the following findings of fact alleged in the Enforcement Action:

The Respondent owns and/or operates a hazardous waste and used oil transfer facility located at 3450 Hollywood Avenue in Shreveport, Caddo Parish, Louisiana. The Respondent submitted a Notification of Hazardous Waste Activity Form HW-1 dated March 24, 2006, for their hazardous waste and used oil transfer facility operations. The facility has been assigned EPA identification number LAD985174234, and the Respondent transports hazardous waste and used oil using EPA identification number ILR000130062.

On or about June 16, 2006, the Department conducted an inspection that it alleges disclosed the following:

1. The Respondent operated a hazardous waste transfer facility without the authorization of the administrative authority in violation of LAC 33:V.1305.C.
2. The Respondent operated a used oil transfer facility without the authorization of the administrative authority in violation of LAC 33:V.4035.

B. Enforcement No. HE-CN-06-0345:

On February 9, 2007, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-06-0345, which was based upon the following findings of fact as alleged in the Enforcement Action:

The Respondent owns and/or operates a hazardous waste transfer facility located at 1053 Jeter Street in Bossier City, Bossier Parish, Louisiana. The Respondent submitted a Notification of Hazardous

Waste Activity Form HW-1 dated October 25, 2006, for their hazardous waste transfer facility operations. The facility has been assigned EPA identification number LAR000063115, and the Respondent transports hazardous waste using EPA identification number ILR000130062.

On or about November 2, 2006, the Department conducted an inspection that it alleges disclosed...[that] “the Respondent operated a hazardous waste transfer facility without the authorization of the administrative authority in violation of LAC 33:V.1305.C.”

C. Enforcement No. HE-PP-06-0367:

On February 9, 2007, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. HE-PP-06-0367, which was based upon the following findings of fact as alleged in the Enforcement Action:

On or about November 30, 2006, a file review of Heritage-Crystal Clean, LLC, owned and/or operated by Heritage-Crystal Clean, LLC (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations. The facility is located at 9346 Ashland Road in Gonzales, Ascension Parish, Louisiana.

The following alleged violation was noted during the course of the file review:

The Respondent applied for authorization to operate as a hazardous waste transfer facility in a Notification of Hazardous Waste Activity Form HW-1 dated June 27, 2002. The Department authorized the facility to operate as a hazardous waste transfer facility for two (2) years in a letter dated April 28, 2003 and received by the Respondent on May 3, 2003. The letter stated the Respondent is authorized to operate as a hazardous waste transfer facility for two (2) years from the receipt of the letter, after which, the Respondent must reapply. The Respondent submitted an updated Notification of Hazardous Waste Activity Form HW-1 dated November 18, 2003 that changed the generator status of the facility and included updated facility information. This updated notification did not serve as a reapplication for hazardous waste transfer facility status. Therefore, the Respondent operated a hazardous waste transfer facility without the authorization of the administrative authority in violation of LAC 33:V.1305.C when

the authorization expired May 2, 2005. The Respondent reapplied for hazardous waste transfer facility status Notification of Hazardous Waste Activity Form HW-1 dated October 23, 2006.

D. Enforcement No. HE-CN-09-0608:

On November 17, 2009, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-09-0608, which was based upon the following findings of fact as alleged in the Enforcement Action:

The Respondent owns and/or operates a hazardous waste transfer facility located at 9346 Ashland Road in Gonzales, Ascension Parish, Louisiana. The Respondent submitted a Notification of Hazardous Waste Activity Form HW-1 dated October 23, 2006, for their hazardous waste transfer facility operations. The facility was granted a two (2) year approval for the hazardous waste transfer facility operations; this approval expired on December 6, 2008. The facility has been assigned EPA identification number LAR 000049627.

On or about November 16, 2009, the Department conducted [a] file review that it alleges revealed the Respondent operated a hazardous waste transfer facility without the authorization of the administrative authority in violation of Lac 33:V.1305.C. Specifically, the Respondent's two (2) year approval for hazardous waste transfer facility operations expired on December 6, 2008.

III

In response to Enforcement Actions No. HE-CN-06-0221, HE-CN-06-0345 and HE-CN-09-0608, the Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties. In addition, Respondent states that it complied at all times with applicable regulatory requirements and denies the findings of fact as alleged in Paragraph II above.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SEVEN THOUSAND AND NO/100 DOLLARS (\$7,000), of which Two Thousand Seven Hundred Thirty-Two and 54/100 Dollars (\$2,732.54) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the enforcement actions listed above and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

The Department acknowledges that as of the date of this Agreement, the Respondent is in compliance with the regulatory provisions underlying each of the four enforcement matters listed above.

VIII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such

review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of each parish governing authority in Ascension, Bossier and Caddo Parishes, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice from each official journal of the affected parishes to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana,

70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XII

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

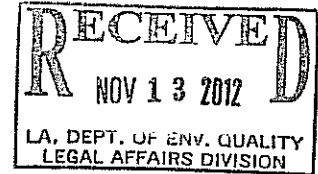
XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



October 24, 2012

Mr. Herman Robinson, Executive Counsel
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302

Re: AG Review of DEQ Settlement;
Heritage Crystal Clean, LLC
Settlement No. SA-HE-11-0007

Dear Mr. Robinson:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7, I approve the above referenced settlement.

Sincerely,

By: 

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

JDC/MKT/SBJ