

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

<b>IN THE MATTER OF:</b>	*	<b>Settlement Tracking No.</b>
	*	<b>SA-WE-15-0014</b>
<b>CHEMICAL WASTE MANAGEMENT, INC.</b>	*	
	*	<b>Enforcement Tracking No.</b>
<b>AI # 742</b>	*	<b>WE-CN-08-0112</b>
	*	<b>WE-CN-08-0112A</b>
	*	<b>WE-CN-08-0112B</b>
	*	<b>WE-CN-08-0112C</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	
<b>ENVIRONMENTAL QUALITY ACT</b>	*	<b>Docket No. 2009-8321-EQ</b>
	*	<b>2012-9638-EQ</b>
<b>LA. R.S. 30:2001, <u>ET SEQ.</u></b>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Chemical Waste Management, 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 hazardous and non-hazardous industrial waste management facility located in Sulphur, Calcasieu Parish, Louisiana (“the Facility”).

II

On May 29, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-08-0112, which was based upon the following findings of fact:

“The Respondent owns and/or operates a hazardous and non-hazardous industrial waste

management facility which is located at 7170 John Brannon Road in Sulphur, Calcasieu Parish, Louisiana. The Respondent was granted coverage under Louisiana Water Discharge Pollutant System (LWDPS) permit WP0202, effective September 27, 1994, with an expiration date of September 26, 1999. The Respondent was issued National Pollutant Discharge Elimination System (NPDES) permit LA0054828, effective date of November 1, 1995, with an expiration date of October 31, 2000. In accordance with the Department's assumption of the NPDES program by the state, NPDES permit LA0054828 became Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0054828 on or about August 27, 1996. On or about January 15, 1998, the Department received a Notice of Intent to Terminate LWDPS permit WP0202 from the Respondent. On or about April 22, 1998, the Department made a tentative decision to terminate LWDPS permit WP0202. The Respondent submitted a permit renewal application on or about April 1, 2000, which was received on April 27, 2000 and LPDES permit LA0054828 was administratively continued. The Respondent was reissued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0054828, effective on August 1, 2006, with an expiration date of July 31, 2011. On or about August 14, 2006, a modification of LPDES permit LA0054828 was granted to the Respondent to correct minor typographical errors. Under the terms and conditions of the LPDES permit LA0054828, the Respondent is authorized to discharge potentially contaminated and uncontaminated stormwater runoff, treated sanitary wastewater, and pressure relief water from air stripping units into local drainage, thence into Bayou Choupique, waters of the state.

The Respondent was issued **COMPLIANCE ORDER WE-C-01-0012** on or about February 21, 2001, for the following areas of concern noted during a January 29, 2001, file review: failure to meet the effluent limitations of its permit for the monitoring periods from

January 1998 through November 2000, failure to submit complete and/or accurate Discharge Monitoring Reports (DMRs) in a timely manner, failure to follow approved test procedures, and failure to submit accurate noncompliance reports. The Order required the Respondent to immediately take any and all steps necessary to cease any and all unauthorized discharges to the waters of the state, meet and maintain compliance with LPDES permit LA0054828, conduct monitoring according to approved test procedures and submitting accurate noncompliance reports and DMRs, and submit a written report to include the circumstances of the cited violations and the actions taken to achieve compliance. The Respondent submitted a written response on or about April 6, 2001. **COMPLIANCE ORDER WE-C-01-0012** is a final action of the Department and not subject to further review.

On or about November 28, 2001, an inspection conducted by the Department and a subsequent file review conducted on or about May 1, 2008, revealed that the Respondent failed to submit accurate DMRs. Specifically, the Respondent indicated one exceedence at Outfall 015 for the Oil and Grease parameter for the April to October 2001 monitoring period. Each submittal of an inaccurate DMR is in violation of **COMPLIANCE ORDER WE-C-01-0012**, LPDES permit LA0054828 (Part III, Sections A.2 and D.4) La R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.

On or about March 19, 2003, an inspection conducted by the Department and a subsequent file review on or about May 1, 2008, revealed that the Respondent failed to submit accurate DMRs. The Respondent failed to report the sample value for Benzoic Acid at Outfall 002A for the January to February 2008 monitoring period. In addition, the Respondent failed to fill out the dates in the proper number format on the DMRs for the November 2001 to May 2002 monitoring period. On April 16, 2003, the Department received a revised DMR with the correct

number format for the May 2005 monitoring period. Each submittal of an inaccurate DMR is in violation of **COMPLIANCE ORDER WE-C-01-0012**, LPDES permit LA0054828 (Part III Sections A.2 and D.4) La R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.

An inspection conducted by the Department on or about February 15, 2005, revealed that the Respondent failed to follow approved testing methods. Specifically, the Respondent 1) exceeded the holding time and 2) reported the “mean” value for the initial test and retest, when the retest exceeded the holding time for the sample results for the May 2004 monitoring period for Outfall 002. Each failure to follow approved test methods constitutes a violation of **COMPLIANCE ORDER WE-C-01-0012**, LPDES permit LA0054828 (Part III, Sections A.2 and C.5), La. R. S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.J.1 and LAC 33:IX.2701.J.4.

An inspection conducted by the Department on or about June 9, 2006, revealed that the Respondent failed to use appropriate quality assurance procedures. Specifically, the Respondent did not have a traceable National Institute of Standards and Technology (NIST) thermometer in the refrigerator where the laboratory samples were stored. The Respondent’s failure to use adequate laboratory controls and appropriate quality assurance procedures is in violation of LPDES permit LA0054828 (Part III, Sections A.2, B.3, C.5 ), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.

An inspection conducted by the Department on or about June 9, 2006, revealed that the Respondent did not properly collect the sample for the bio-toxicity test as required by LPDES permit LA0054828. Specifically, the Respondent manually composited bio-toxicity aliquots at Outfall 002. LPDES permit LA0054828 requires a weighted 24-hour composite sample for

toxicity samples. Each failure to properly measure each sample is in violation of LPDES permit LA0054828 (Part II, Section 13.C.4, and Part III, Sections A.2 and C.5), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.E, LAC 33:IX.2701.J.1, LAC 33:IX.2701.J.4, and LAC 33:IX.4901.

Inspections conducted by the Department, on or about November 28, 2001, March 19, 2003, June 9, 2006, June 5, 2007, and April 2, 2008, and a subsequent file review on April 10, 2008 of the Discharge Monitoring Reports (DMRs) from April 2002 through February 2008, revealed the following effluent violations:

<b>Monitoring Period</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
04/30/2002	002A	pH max	9.0 S.U.	9.54 S.U.
07/11/2002	TX2Q	Pimephales promelas, Lethality	Pass	Fail
10/31/2002	008S	Oil & Grease daily max	15 mg/L	>5.00 mg/L
01/28/2003	TX2Q	C. Dubia Lethality	Pass	Fail
08/31/2005	004B	pH min	6.0 S.U.	4.93 S.U.
09/30/2006	001R	Toluene daily max	0.060 mg/L	0.099 mg/L
10/31/2006	002A	TSS daily max	45 mg/L	151 mg/L
03/31/2007	TX2Q	C. Dubia reproduction	Pass	Fail
	009Q	pH max	9.0 S.U.	9.61 S.U.
04/15/2007	002A	TSS daily max	45 mg/L	58.0 mg/L
04/16/2007	002A	TSS daily max	45 mg/L	48.0 mg/L
04/17/2007	002A	TSS daily max	45 mg/L	50.0 mg/L
04/30/2007	002A	TSS daily max	45 mg/L	59.0 mg/L
06/30/2007	TX2Q	C. Dubia reproduction	Pass	Fail
	TX2Q	C. Dubia lethality	Pass	Fail
07/06/2007	002A	TSS daily max	45 mg/L	150 mg/L
07/07/2007	002A	TSS daily max	45 mg/L	139 mg/L
07/08/2007	002A	TSS daily max	45 mg/L	80.5 mg/L
07/09/2007	002A	TSS daily max	45 mg/L	113 mg/L
07/10/2007	002A	TSS daily max	45 mg/L	88 mg/L
07/11/2007	002A	TSS daily max	45 mg/L	79.5 mg/L
07/31/2007	002A	TSS daily max	45 mg/L	150mg/L
	002A	TSS daily max	45 mg/L	151mg/L

09/30/2007	009Q	pH max	9.0 S.U.	9.13 S.U.
	010Q	pH max	9.0 S.U.	9.17 S.U.
12/31/2007	002A	TSS daily max	45 mg/L	60.3 mg/L
02/29/2008	002A	TSS daily max	45 mg/L	47.8 mg/L

Each exceedence of the effluent limitations constitutes a violation of LPDES permit LA0054828, (Part I and Part III Section A.2), La. R.S. 30:2075, La. R.S. 30:2076 (A)(1), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.”

On March 27, 2009, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-08-0112A, which was based upon the following:

The Department hereby amends the Compliance Order section only. “The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-08-0112** and **AGENCY INTEREST NO. 742** as if reiterated herein.”

On May 12, 2010, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-08-0112B, which was based upon the following:

The Department hereby amends the Compliance Order section only. “The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-08-0112, AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-08-0112A,** and **AGENCY INTEREST NO. 742** as if reiterated herein.”

On March 21, 2012, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-08-

0112C, which was based upon the following findings of fact:

“The Department hereby amends Paragraph VIII. of the Findings of Fact to read as follows:

Inspections conducted by the Department, on or about November 28, 2001, March 19, 2003, June 9, 2006, June 5, 2007, April 2, 2008, March 31, 2009, and January 27, 2011, and subsequent file reviews conducted by the Department on or about April 10, 2008, April 6, 2011, and January 30, 2012, of the Discharge Monitoring Reports (DMRs) from April 2002 through March 2011, revealed the following effluent violations:

<b>Monitoring Period</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
04/30/2002	002A	pH max	9.0 S.U.	9.54 S.U.
07/01/2002	TX2Q	Pimephales Promelas, Lethality	Pass	Fail
10/31/2002	008S	Oil & Grease daily max	15 mg/L	>5.00 mg/L
01/31/2003	TX2Q	C.Dubia Lethality	Pass	Fail
08/31/2005	004B	pH min	6.0 S.U.	4.93 S.U.
09/30/2006	001R	Toluene daily max	0.060 mg/L	0.099 mg/L
10/31/2006	002A	TSS daily max	45 mg/L	151 mg/L
03/31/2007	009Q	pH max	9.0 S.U.	9.61 S.U.
04/15/2007	002A	TSS daily max	45 mg/L	58.0 mg/L*
04/16/2007	002A	TSS daily max	45 mg/L	48.0 mg/L*
04/17/2007	002A	TSS daily max	45 mg/L	50.0 mg/L*
04/30/2007	002A	TSS daily max	45 mg/L	59.0 mg/L
06/30/2007	TX2Q	C.Dubia Reproduction	Pass	Fail
		C.Dubia Lethality	Pass	Fail
07/05/2007	009Q	pH max	9.0 S.U.	9.13 S.U.*
07/05/2007	010Q	pH max	9.0 S.U.	9.17 S.U.*
07/06/2007	002A	TSS daily max	45 mg/L	150 mg/L*
07/07/2007	002A	TSS daily max	45 mg/L	139 mg/L*
07/08/2007	002A	TSS daily max	45 mg/L	80.5 mg/L*
07/09/2007	002A	TSS daily max	45 mg/L	113 mg/L*
07/10/2007	002A	TSS daily max	45 mg/L	88 mg/L*
07/11/2007	002A	TSS daily max	45 mg/L	79.5 mg/L*
07/31/2007	002A	TSS daily max	45 mg/L	150 mg/L
09/30/2007	002A	TSS daily max	45 mg/L	151 mg/L
	009Q	pH max	9.0 S.U.	9.13 S.U.



<b>Monitoring Period</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
	010Q	pH max	9.0 S.U.	9.17 S.U.
12/31/2007	002A	TSS daily max	45 mg/L	60.3 mg/L
02/29/2008	002A	TSS daily max	45 mg/L	47.8 mg/L
03/31/2008	002A	TSS daily max	45 mg/L	75.5 mg/L
12/31/2008	002A	TSS daily max	45 mg/L	62 mg/L
	002Q	Polychlorinated bi-phenyls (PCBs) daily max	.005 mg/L	<5 mg/L
10/31/2009	016A	TSS	45 mg/L	99.3 mg/L
11/30/2009	001A	Cyanide daily max	0.009 mg/L	0.069 mg/L
	002A	TSS daily max	45 mg/L	70 mg/L
01/31/2010	002A	TSS daily max	45 mg/L	89.5 mg/L
01/31/2011	002A	TSS daily max	45 mg/L	114 mg/L

\*As reported by the Respondent on non-compliance reports.

Each exceedence of the effluent limitations is a violation of LPDES permit LA0054828 (Part I and Part III Section A.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

The Department hereby adds Paragraph IX. to the Findings of Fact, which shall read as follows:

A follow-up inspection conducted by the Department on or about January 27, 2011, revealed an unauthorized discharge of a pollutant not specifically authorized by the LPDES permit LA0054828. Specifically, the Respondent self-reported an unauthorized discharge of thirteen (13) gallons of hazardous waste landfill leachate, hazardous waste code F039, on the on-site gravel road near the Leachate Loading/Unloading Building on February 3, 2010. The spill occurred when a Respondent's employee failed to disconnect the transfer hose from the tanker truck. The stormwater that comes in contact with the spill site discharges into Outfall 002. LPDES permit LA0054828 does not authorize the discharge of F039 at Outfall 002. The unauthorized discharge of a pollutant not specifically authorized by the permit is a violation of



LPDES permit LA0054828 (Part III, Section A.2 and B.3), La. R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.D.

The Department hereby adds Paragraph X. to the Findings of Fact, which shall read as follows:

A file review conducted by the Department on or about January 30, 2012, revealed that the Respondent failed to report sample values on DMRs. Specifically, the Respondent failed to report sample values for Benzoic Acid at Outfall 002 on the January 2008 and February 2008 DMRs, and Flow at Outfall 015Q on the March 2008 DMR. Each failure to report is a violation of LPDES permit LA0054828 (Part II, Section O, and Part III, Section A.2 and C.6), La.R.S.30:2076 (A)(3), LAC 33:501.A, and LAC 33:IX.2701.L.4.a.

The Department hereby adds Paragraph III. to the Compliance Order, which shall read as follows:

The Respondent shall accomplish the following tasks and comply with the following schedule of activities associated with the corrective measures to be taken at Outfall 002:

<b>MILESTONE</b>	<b>COMPLETION DATE</b>
Evaluate Alternate Technologies (includes bench test and field testing)	Completed
Select Technology	Completed
Assess screening protocols and achieve full compliance with permit limits established in LPDES permit LA0054828.	December 31, 2012

The Respondent shall submit progress reports monthly until completion of the proposed improvements. The first progress report is due April 31, 2012. Within 15 days of any due date specified in the schedule above, the Respondent shall submit a certification of any non-compliance with that activity. If the Respondent reports non-compliance with a scheduled event, the certification shall include a discussion of the cause of the delay, an anticipated date of completion and a discussion of any impairment of a subsequent due date.

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-08-0112, AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-08-0112A, WE-CN-08-0112B, and AGENCY INTEREST NO. 742** as if reiterated herein.”

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement:

An inspection on September 26, 2013 and subsequent file review on May 5, 2015, conducted by the Department, revealed the following exceedances as reported on the Discharge Monitoring Reports submitted by Respondent:

<b>Monitoring Period</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Permit Limit</b>	<b>Sample Value</b>
03/31/2012	002A	Oil & Grease daily max	15 mg/L	17.7 mg/L
03/31/2012	015Q	Oil & Grease daily max	15 mg/L	36.8 mg/L
07/31/2012	002A	pH INST MAX	9 SU	9.12
02/28/2013	001A	Total Cyanide daily max	0.009 mg/L	0.044 mg/L
03/31/2014	002Q	Total Copper daily max	0.004 mg/L	0.013 mg/L
06/30/2014	002A	pH INST MAX	9 SU	9.08
06/30/2014	04BQ	Fecal Coliform daily max	400 col/100 mL	500 col/100 mL

Each exceedance of the effluent limitations is a violation of LPDES permit LA0054828 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on May 5, 2015 revealed that in August 2014 Respondent exceeded a sample holding time before the analysis was initiated. Specifically, Respondent reported on the DMR for Outfall 002-A, that the standard holding time of 48 hours was exceeded by two hours before analysis for Biological Oxygen Demand (BOD) was initiated.

This exceedance of the standard holding time is a violation of LPDES permit LA0054828 (Part III, B.3), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E.

III

In response to the CONOPPs, Respondent made timely requests for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

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 FOUR THOUSAND EIGHT HUNDRED SIXTY AND NO/100 DOLLARS (\$4,860.00), of which Two Thousand Nine Hundred Forty and 96/100 Dollars (\$2,940.96) 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), permit record(s), CONOPPs 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

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.

## VIII

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.

## IX

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.

## X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, 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 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.

**CHEMICAL WASTE MANAGEMENT, INC.**

BY: Charles W Grant  
(Signature)

Charles W Grant  
(Printed)

TITLE: District Manager

THUS DONE AND SIGNED in duplicate original before me this 13<sup>th</sup> day of October, 20 15, at Sulphur LA.

Janet Naguin  
NOTARY PUBLIC (ID # 69390)

Janet Naguin  
(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

Peggy M. Hatch Secretary

BY: D. Chance McNeely  
D. Chance McNeely, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 5<sup>th</sup> day of Jan, 20 16, at Baton Rouge, Louisiana.

Perry Theriot  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: D. Chance McNeely  
D. Chance McNeely, Assistant Secretary