

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

GATOR ENVIRONMENTAL WASTE
SOLUTIONS, LLC

154502

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

* Settlement Tracking No.
* SA-SE-17-0005
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* Enforcement Tracking No.
* SE-CN-12-01368
* SE-PP-14-00858
* SE-PP-15-01382
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SETTLEMENT

The following Settlement is hereby agreed to between GATOR ENVIRONMENTAL WASTE SOLUTIONS, LLC (“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 limited liability company that owns and/or operates a Type III Construction and Demolition Landfill facility at 5194 Highway 70 in Sorrento, Ascension Parish, Louisiana. (“the Facility”).

II

On February 14, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-12-01368, which was based upon the following findings of fact:

“The Respondent owns and/or operates a facility known to the Department as Gator Environmental Waste Solutions, L.L.C. located on Highway 70 in Sorrento, Ascension Parish,

Louisiana. The Respondent is registered with the Department as a Type III – Construction/Demolition Debris Landfill by registration number D-005-12806 and operates under solid waste standard permit P-0409 with minor modifications approved on September 30, 2010, May 1, 2012, and P-0409-M3 approved on September 11, 2012. The Respondent accepted industrial waste transported by Ace Waste Systems, Inc. from Air Liquide.

On or about August 15, 2012, an inspection was conducted at Air Liquide. During the inspection, the following violation was noted:

The Respondent failed to prohibit or prevent the disposal of industrial solid waste in the Type III facility as required in Part II, 521.G.1.a of the Solid Waste Permit Application, in violation of Condition 8 of Standard Permit P-0409 and LAC 33:VII.721.C.1.f. Specifically, the Respondent accepted loads of industrial solid waste transported by Ace Waste Systems, Inc. from Air Liquide.”

On February 10, 2015, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. SE-PP-14-00858, which was based upon the following findings of fact:

“On or about June 25, 2014, an inspection of **GATOR ENVIRONMENTAL WASTE SOLUTIONS, LLC**, a Type III Construction and Demolition Landfill, owned and/or operated by **GATOR ENVIRONMENTAL WASTE SOLUTIONS LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste Regulations. The facility is located at 5194 Highway 70 in Sorrento, Ascension Parish, Louisiana.

On or about February 14, 2013, Compliance Order and Notice of Potential Penalty SE-CN-12-01368 was issued to the Respondent for violations of the Solid Waste Regulations that included the violation for failure to prohibit the disposal of an industrial solid waste. The Respondent complied with the order and was issued a violation clear letter on or about December 2, 2013.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation was noted during the course of the inspection:

The Respondent failed to prohibit or prevent the disposal of industrial solid waste in the Type III facility as required in Part II, 521.G.1.a of the Solid Waste Permit Application, in violation of Condition 8 of Standard Permit P-0409, LAC 33:VII.721.C.1.f, LAC 33:VII.901.A and SE-CN-12-01368. Specifically, the Respondent allowed spent sand with industrial waste number 11058-021 from Pearce Foundry to be disposed of at the non-industrial facility. Between 180 to 300 cubic yards of industrial waste sand were received by the Respondent from the mid part of 2013 until the June 25, 2014, inspection.”

On April 29, 2016, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. SE-PP-15-01382, which was based upon the following findings of fact:

“On or about September 2, 2015, an inspection of **GATOR ENVIRONMENTAL SOLUTIONS**, a Type III Landfill, owned and/or operated by **GATOR ENVIRONMENTAL WASTE SOLUTIONS LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste Regulations. The facility is located at 5194 Highway 70 in Sorrento, Ascension Parish, Louisiana. The Respondent operates under Standard Permit P-0409.

On or about February 14, 2013, Compliance Order and Notice of Potential Penalty SE-CN-12-01368 was issued to the Respondent for violations of the Solid Waste Regulations that included the violation for failure to prohibit the disposal of an industrial solid waste. The Respondent complied with the order and was issued a violation clear letter on or about December 2, 2013.

On or about February 10, 2015, Notice of Potential Penalty SE-PP-14-00858 was issued for violations of the Solid Waste Regulations. The notice was received on March 4, 2015.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation was noted during the course of the inspection:

The Respondent failed to prohibit or prevent the disposal of unacceptable solid waste in the Type III facility as required in Part II, 521.G.1.a of the Solid Waste Permit Application, in violation of Condition 8 of Standard Permit P-0409, LAC 33:VII.721.C.1.f, and LAC 33:VII.901.A. Specifically, the Respondent allowed a load of tarps used during the

renovation of the Sunshine Bridge to be disposed in the landfill. The tarps were removed from the landfill and taken to a permitted Type I/II facility on September 3, 2015.”

III

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$1,700.00), which represents the Department’s enforcement costs, in settlement of the claims set forth in this agreement.

V

Respondent, in addition to the Department’s enforcement costs specified in Paragraph IV above and as part of this Settlement, agrees to expend the amount of ONE HUNDRED NINETEEN THOUSAND FIVE HUNDRED NINETY-FIVE AND NO/100 DOLLARS (\$119,595.00) to implement and/or perform the following beneficial environmental projects:

- A. The Respondent shall place an additional twelve (12) inches of silty clay cover over non-active areas of the landfill which encompasses approximately eight (8) acres. The Respondent will keep records of the amount of cover placed each day over the non-active area until it is completely covered with the additional twelve (12) inches of silty clay cover. The additional cover for the non-active areas will cost an estimated total of \$63,245.00 which is based on a unit cost of \$3.50 per cubic yard of silty clay for a total volume of 18,070 cubic yards of silty clay. This shall be completed by April 1, 2017.

- B. The Respondent shall increase the frequency cover is applied on the active working face of the landfill from once every thirty (30) days to once at the end of each work week for a total of six (6) additional cover events. The cover will consist of silty clay applied a minimum of twelve (12) inches thick. The increase in cover will commence on February 9, 2017 and will continue for sixty (60) working days. In the event the Respondent is unable to complete the six (6) additional cover events in sixty (60) working days, the Respondent will ensure the additional cover events are still completed. During this time, the Respondent will minimize the size of the working face and will keep a cover log recording the type of cover, amount of cover placed, date(s) and location of cover placement. The increase in frequency of cover for the working face will cost an estimated total of \$56,350.00 which is based on a unit cost of \$3.50 per cubic yard of silty clay for a total volume of 16,100 cubic yards of silty clay.
- C. Respondent shall submit weekly reports regarding its progress on the projects. The first shall be due seven (7) days following the date the Department signs this Settlement. Weekly reports shall be submitted two (2) working days following each application of cover until the projects are completed. Each such report shall include a description of the project in the form of a cover log that describes the type of cover, amount of cover placed, date(s) and location of cover placement, tasks remaining, the percentage completed, and money expended on each project through the date of the report. Upon completion of all projects required under this Settlement, Respondent shall submit a final report to include a summary of all the information previously submitted and a total amount spent on the projects listed above. It shall also contain

a verification that the projects were completed as described. All documentation shall be submitted to Kelly O'Neal at Kelly.O'Neal@la.gov.

- D. If Respondent does not spend the amount of \$ 119,595.00, then it shall, in its final report, propose additional projects for the Department's approval (or pay to the Department) in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.
- E. The total amount of money expended by Respondent on cash payments to the Department and on beneficial environmental projects, 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 Consolidated Compliance Order & Notice of Potential Penalty, Notices of Potential Penalties, 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 LSA- R. S. 30:2025(E) of the Act and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

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 Ascension 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.

GATOR ENVIRONMENTAL WASTE SOLUTIONS LLC

BY:

[Signature]
(Signature)

John Brady Melancon
(Print)

TITLE:

Managing Member

THUS DONE AND SIGNED in duplicate original before me this 18 day of April, 20 17, at Sorrento, LA.

DARIA JONES, NOTARY PUBLIC
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
MY COMMISSION ISSUED FOR LIFE

[Signature]
NOTARY PUBLIC (ID # 5830)

Daria Jones
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Dr. Chuck Carr Brown, Secretary

BY:

[Signature]

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 27th day of June, 20 17, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Terry Theriot
(Print)

Approved:

[Signature]

Lourdes Iturralde, Assistant Secretary