

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SOUTHERN RECYCLING, L.L.C.

AI # 16101

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

* Settlement Tracking No.
* SA-MM-17-0022
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* Enforcement Tracking No.
* MM-CN-13-00091
*
*
* Docket No. 2014-11068-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Southern Recycling, L.L.C. (“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 scrap metal recycling facility located in Lafayette, Lafayette Parish, Louisiana (“the Facility”).

II

On June 28, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-13-00091, which was based upon the following findings of fact:

“The Respondent owns and/or operates a scrap metal recycling facility located at 4802 Cameron Street in Lafayette, Lafayette Parish, Louisiana. SSX, L.C. was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General permit LAG480000 and was specifically assigned permit number LAG480364 on or about March 8, 2004. LPDES permit

LAG480364 expired on July 31, 2006, but was administratively continued until the Respondent was reauthorized on or about October 21, 2011, with an expiration date of November 30, 2015. On or about January 28, 2009, the Department received a Notification of Change of Ownership/ Operator or Name Change Form (NOC-1) from the Respondent to change the owner/operator name of the facility from SSX, L.C. to Southern Recycling, L.L.C. The Department granted the request on or about March 31, 2009, with an effective date of December 18, 2008. Under the terms and conditions of LPDES permit LAG480364, the Respondent is authorized to discharge treated sanitary wastewater from Outfall 001 and non-contact storm water runoff from Outfall 009 into a Highway 90 ditch, thence into Coulee Mine, thence into the Vermilion River, waters of the state. The Respondent does not have a permit or other authorization from the Department to dispose of solid waste at the facility.

An inspection conducted by the Department on or about May 15, 2008, revealed that heavy rains caused the facility to flood and the containment sump for the car crusher to overflow. The inspection also revealed the following: the road to the west of the facility was flooded and a visible sheen was present on the water, the front ditches of the facility contained oil and a visible sheen was observed on the water, the facility's electricity was out until ten o'clock that morning, oil and other motor fluids were noted in flood waters within the facility and along the roadside ditches, a visible sheen was observed in the flood waters in several areas on the east side of the facility, a silver sheen was observed in the water in an area around metal shavings, and pink and orange sheens were observed on the water in several areas on the west side of the yard. A file review conducted by the Department on or about April 11, 2013, revealed that heavy rains, flooding, and tornados were reported in the area of the facility on the morning of May 15, 2008. The National Weather Service reported widespread severe weather events, including nine (9) tornados, across Southwest Louisiana and Southwest Texas with the most significant damage being reported in the Lafayette metropolitan

area.

Inspections conducted by the Department on or about May 15, 2008, and May 16, 2008, revealed that the Respondent failed to minimize or correct the effects of the release of oil and other motor fluids released into the flood water on the morning of May 15, 2008. Specifically, the Department asked that the Respondent remediate the visibly contaminated soils for disposal during the inspection conducted on or about May 15, 2008. During a follow-up inspection conducted on or about May 16, 2008, the Respondent stated that they had finished the remediation efforts other than a few absorbent booms left as a precaution. The May 16, 2008, inspection noted black, brown, pink, orange, silver, and green sheens in pooled water areas and in the muddy soil. In addition, the flow of customer traffic was directed through areas where visible sheens were noted. The inspector informed the Respondent that the remediation efforts were inadequate and showed the Respondent areas that were still visibly contaminated with automotive fluids; however, the Respondent stated during the May 16, 2008, inspection that the remediation was complete. The failure to take all reasonable steps to minimize or correct the release of oil and other motor fluids is a violation of LPDES permit LAG480364 (Part III, Section B.2) and La. R.S. 30:2077.

An inspection conducted by the Department on or about May 15, 2008, and a subsequent file review conducted on or about April 11, 2013, revealed that the Respondent failed to submit written notification of the incident which occurred on May 15, 2008, to the Department within seven (7) days of discovery. As of April 11, 2013, the Respondent has not submitted a written notification of the incident to the Department. The failure to submit written notification to the Department is a violation of LPDES permit LAG480364 (Part III, Sections A.2 and D.6.d), La. R.S. 30:2076 (A) (3), LAC 33:I.3917.A and LAC 33:I.3925.A.

An inspection conducted by the Department on or about May 15, 2008, revealed that the

Respondent failed to develop and implement an adequate Spill Prevention and Control (SPC) plan. Specifically, the inspection revealed that the secondary containment system around the 1,300 gallon used oil tank had trash, mufflers, etc. stored in the containment system, and a valve on the containment system was found to be open and water was observed draining onto the ground. The inspection also noted that the SPC plan was missing required information, had not been reviewed and amended as required, and did not appear to have been implemented. The failure to develop and implement an adequate SPC plan is a violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.905.B, and LAC 33:IX.907.F.

An inspection conducted by the Department on or about November 9, 2012, revealed that the Respondent failed to develop and implement an adequate Spill Prevention and Control (SPC) plan. Specifically, the inspection revealed that a hose connected to the base of the sump water tank was stretched over the secondary containment wall onto the earthen ground. The inspection also noted that the SPC plan was missing a diagram of the tanks at the site. The failure to develop and implement an adequate SPC plan is a violation of LPDES permit LAG480364 (Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.905.B, and LAC 33:IX.907.F.

An inspection conducted by the Department on or about May 15, 2008, revealed that the Respondent failed to develop and implement an adequate Storm Water Pollution Prevention Plan (SWP³). Specifically, the inspection revealed the following: the containment around the car crusher did not completely surround the unit to prevent automotive fluids from being discharged during rain events, the SWP³ did not contain a site drainage map, storm water outfalls listed in the SWP³ did not match those listed in the permit application, the SWP³ stated that some pollutant sources such as used oil storage and a diesel fueling area were located in a shed when in actuality they were located outside and lacked storm water controls and/or best management practices, there was no

documentation of implementation of the plan, the compliance evaluations were not dated, and there were no reports present to show that the plan had been reviewed and was effective. The failure to develop and implement an adequate SWP³ is a violation of LPDES permit LAG480364 (Part I, page 19 of 23 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

Following an inspection conducted by the Department on or about November 9, 2012, the Department asked the Respondent to provide a copy of the facility's SWP³. A review of the SWP³ revealed that the Respondent failed to develop and implement an adequate SWP³. Specifically, the inspection revealed the SWP³ did not contain a site inspection checklist or a record of employee training. The failure to develop and implement an adequate SWP³ is a violation of LPDES permit LAG480364 (Part I, page 24 and 25 of 29 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted by the Department on or about April 11, 2013, revealed that exceedences of the Benchmark concentrations were reported on the Discharge Monitoring Reports (DMRs). LPDES permit LAG480364 requires the Respondent to follow the requirements for Sector N in the Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities (MSGP) for Outfalls 002 and 003. According to Section 5.4 of the MSGP, an exceedence of a benchmark value does not constitute a violation of the permit, but it can indicate areas where improvement of the SWP³ may be necessary. The Respondent reported the following exceedences of the benchmark concentrations:

DATE	OUTFALL	PARAMETER	BENCHMARK CONCENTRATION	REPORTED VALUE
01/01/2007 to 03/31/2007	002	TSS	100 mg/L	867 mg/L

DATE	OUTFALL	PARAMETER	BENCHMARK CONCENTRATION	REPORTED VALUE
		Total Recoverable Aluminum	0.75 mg/L	10.7 mg/L
		Total Recoverable Copper	0.0636 mg/L	0.885 mg/L
		Total Recoverable Iron	1.0 mg/L	21.5 mg/L
		Total Recoverable Lead	0.0816 mg/L	0.324 mg/L
		Total Recoverable Zinc	0.117 mg/L	1.11 mg/L
	003	TSS	100 mg/L	943 mg/L
		Total Recoverable Aluminum	0.75 mg/L	13.2 mg/L
		Total Recoverable Copper	0.0636 mg/L	0.933 mg/L
		Total Recoverable Iron	1.0 mg/L	26.7 mg/L
		Total Recoverable Lead	0.0816 mg/L	0.419 mg/L
		Total Recoverable Zinc	0.117 mg/L	1.37 mg/L
04/01/2007 to 06/30/2007	002	Total Recoverable Iron	1.0 mg/L	2.36 mg/L
	003	COD	120 mg/L	236 mg/L
		Total Recoverable Iron	1.0 mg/L	2.33 mg/L
07/01/2007 to 09/30/2007	002	TSS	100 mg/L	242 mg/L
		Total Recoverable Aluminum	0.75 mg/L	7.21 mg/L
		Total Recoverable Copper	0.0636 mg/L	0.35 mg/L
07/01/2007 to 09/30/2007	002	Total Recoverable Iron	1.0 mg/L	11.8 mg/L
		Total Recoverable Lead	0.0816 mg/L	0.168 mg/L
		Total Recoverable Zinc	0.117 mg/L	0.499 mg/L
	003	Total Recoverable Aluminum	0.75 mg/L	4.53 mg/L

DATE	OUTFALL	PARAMETER	BENCHMARK CONCENTRATION	REPORTED VALUE
		Total Recoverable Copper	0.0636 mg/L	0.157 mg/L
		Total Recoverable Iron	1.0 mg/L	7.21 mg/L
		Total Recoverable Lead	0.0816 mg/L	0.0994 mg/L
		Total Recoverable Zinc	0.117 mg/l	0.385 mg/L
10/01/2007 to 12/31/2007	002	Total Recoverable Iron	1.0 mg/L	1.26 mg/L
	003	Total Recoverable Iron	1.0 mg/L	1.23 mg/L
01/01/2011 to 03/31/2011	002	TSS	100 mg/L	144 mg/L
		Total Recoverable Aluminum	0.75 mg/L	5.51 mg/L
		Total Recoverable Copper	0.0636 mg/L	0.175 mg/L
		Total Recoverable Iron	1.0 mg/L	11.1 mg/L
		Total Recoverable Lead	0.0816 mg/L	0.159 mg/L
		Total Recoverable Zinc	0.117 mg/L	0.651 mg/L
	003	TSS	100 mg/L	130 mg/L
		Total Recoverable Aluminum	0.75 mg/L	5.33 mg/L
		Total Recoverable Copper	0.0636 mg/L	0.172 mg/L
		Total Recoverable Iron	1.0 mg/L	10.7 mg/L
01/01/2011 to 03/31/2011	003	Total Recoverable Lead	0.0816 mg/L	0.146 mg/L
		Total Recoverable Zinc	0.117 mg/L	0.623 mg/L
04/01/2011 to 06/30/2011	002	Total Recoverable Aluminum	0.75 mg/L	2.28 mg/L
		Total Recoverable Copper	0.0636 mg/L	0.139 mg/L

DATE	OUTFALL	PARAMETER	BENCHMARK CONCENTRATION	REPORTED VALUE	
		Total Recoverable Iron	1.0 mg/L	4.36 mg/L	
		Total Recoverable Lead	0.0816 mg/L	0.246 mg/L	
		Total Recoverable Zinc	0.117 mg/L	0.333 mg/L	
	003	Total Recoverable Aluminum	0.75 mg/L	1.94 mg/L	
		Total Recoverable Copper	0.0636 mg/L	0.12 mg/L	
		Total Recoverable Iron	1.0 mg/L	3.76 mg/L	
		Total Recoverable Lead	0.0816 mg/L	0.209 mg/L	
		Total Recoverable Zinc	0.117 mg/L	0.302 mg/L	
	07/01/2011 to 09/30/2011	002	Total Recoverable Copper	0.0636 mg/L	0.115 mg/L
		003	Total Recoverable Copper	0.0636 mg/L	0.106 mg/L
10/01/2011 to 12/31/2011	002	Total Recoverable Aluminum	0.75 mg/L	1.08 mg/L	
		Total Recoverable Iron	1.0 mg/L	1.98 mg/L	
	003	Total Recoverable Copper	0.0636 mg/L	0.106 mg/L	

An inspection conducted by the Department on or about May 15, 2008, and a subsequent file review conducted on or about April 11, 2013, revealed that the Respondent exceeded an effluent limitation. Specifically, the Respondent reported a value of 71.4 mg/L for the TOC Daily Maximum on the Outfall 002 DMR for the second quarter of 2007. For Outfall 002, LPDES permit LAG480364 refers to the schedule given for Sector N in the MSGP. Section 6.N.5 of the MSGP establishes an effluent limitation of 50 mg/L for TOC Daily Maximum. The exceedence of an effluent limitation is a violation of LPDES permit LAG480364 (Part II, Section B and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.D.

A file review conducted by the Department on or about April 11, 2013, of the SWP³ contained in the May 15, 2008 inspection report revealed that the Respondent failed to review and modify the SWP³ as required. Specifically, the Respondent is directed by LPDES permit LAG480364 to follow the requirements for Sector N of the MSGP for Outfalls 002 and 003. The MSGP states that following an effluent exceedence, the Respondent must review its SWP³ and modify it as necessary to address the deficiencies. Revisions to the SWP³ must be completed within fourteen (14) calendar days following the discovery. The Respondent reported a TOC exceedence on the DMR for the second quarter of 2007 for Outfall 002, but the SWP³ does not show that a review or modification was completed within fourteen (14) calendar days following the discovery of the exceedence. The failure to review and modify the SWP³ as required by LPDES MSGP LAR050000 (Sections 5.7 and 6.N.5) is a violation of LPDES permit LAG480364 (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 or about April 11, 2013, revealed that the Respondent failed to submit the required data following the TOC exceedence. Specifically, the MSGP requires the Respondent to conduct additional monitoring following an effluent exceedence. If the additional monitoring does not exceed the limitation, then the follow-up monitoring data must be submitted no later than thirty (30) days after the lab results are received. If the additional monitoring does exceed the limitation, then an Exceedence Report must be submitted no later than thirty (30) days after the lab results are received. As of April 11, 2013, the Department has not received any additional monitoring data or an Exceedence Report. The failure to submit the required data following the exceedence required by LPDES MSGP LAR050000 (Section 5.8) is a violation of LPDES permit LAG480364 (Part I, page 19 of 23 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 or about April 11, 2013, revealed that the Respondent failed to submit the following DMRs:

OUTFALL	DATE
001	1 st half of 2005, 1 st half of 2006, 2 nd half of 2006, 1 st half of 2008, and 2 nd half of 2009
002	1 st quarter of 2009 through 4 th quarter 2009
003	1 st quarter of 2009 through 4 th quarter 2009
009	1 st quarter of 2012 through 4 th quarter 2012

Each failure to submit a DMR prior to October 21, 2011, is a violation of LPDES permit LAG480364 (Part I, Sections B and C.7 and Part III, Sections A.2 and D.4), and of LPDES MSGP LAR050000 (Sections 5.4.1, 6.N.5, and 7.1), La. R.S. 30:2075 (A) (3), and LAC 33:IX.2701.L.4.a. Each failure to submit a DMR after October 21, 2011, is a violation of LPDES permit LAG480364 (Part I, Sections B and C.6 and Part III, Sections A.2 and D.4), and of LPDES MSGP LAR050000 (Sections 5.4.1, 6.N.6, and 7.1), La. R.S. 30:2075 (A) (3), and LAC 33:IX.2701.L.4.a.

A file review conducted by the Department on or about April 11, 2013, revealed that the Respondent failed to report values for the following:

OUTFALL	VIOLATION	DATE
001	pH minimum	1 st half of 2004, 2 nd half of 2004, 2 nd half of 2005, 1 st half of 2011, 2 nd half of 2011, and 1 st half of 2012
	pH maximum	2 nd half of 2011
	Flow weekly average	1 st half of 2007, 2 nd half of 2007, 2 nd half of 2008, 1 st half of 2009, 1 st half of 2010, 2 nd half of 2010, and 1 st half of 2011
	Flow daily maximum	2 nd half of 2011, 1 st half of 2012, and 2 nd half of 2012
	BOD weekly average	2 nd half of 2007
	BOD monthly average	2 nd half of 2011, 1 st half of 2012, and 2 nd half of 2012
001	TSS monthly average	2 nd half of 2011, 1 st half of 2012, and 2 nd half of 2012
	Fecal Coliform monthly average	2 nd half of 2011, 1 st half of 2012, and 2 nd half of 2012
002	COD	1 st quarter of 2007 through 4 th quarter of 2007
003	COD	2 nd quarter of 2007 through 4 th quarter of 2007

Each failure to report a value prior to October 21, 2011, is a violation of LPDES permit LAG480364 (Part I, Section C.7 and Part III, Section A.2) and of LPDES MSGP LAR050000 (Sections 7.1), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.d. Each failure to report a value after October 21, 2011, is a violation of LPDES permit LAG480364 (Part I, Section C.6 and Part III, Section A.2) and of LPDES MSGP LAR050000 (Sections 7.1), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.d.

On or about May 15 and 16, 2008, inspections were conducted by a representative of the Department which revealed the following violation:

The Respondent failed to label or clearly mark an aboveground tank storing used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, a 1300 gallon tank located near the site's car crusher did not have a visible label. The Respondent corrected the violation during the May 16, 2008 inspection, by marking the tanks with the words "Used Oil".

On or about November 9, 2012, Todd Carson, the plant manager, explained that fluids (which mostly consist of used oil) from the car crushing operations are collected and routed to an in-ground collection sump, then pumped into an above ground tank (sump water tank). Carson stated that Aaron Oil is contracted to remove the oil from the sump water tank for disposal. Carson stated that if the sump water tank fills to capacity prior to Aaron Oil's scheduled pick-up, then the water that has phase separated from the oil is discharged from the sump water tank through a hose connected at the base of the tank, into an earthen storm water ditch which flows into an in-ground oil water separator. The November 9, 2012, inspection noted that this earthen ditch is stained black, and saturated oil absorbent booms were placed on both sides of the entrance into the oil water separator. Although the plant manager stated that only water was released into the ditch, the water in the sump water tank is regulated as used oil. According to LAC 33:V.4003.C.3, materials containing or otherwise

contaminated with used oil are subject to regulation as used oil under LAC 33:V.Chapter 40.

On or about November 9, 2012, an inspection conducted by the Department revealed the following violation:

The Respondent failed to stop the release of used oil, contain the released used oil, and clean up and properly manage the released used oil, in violation of LAC 33:V.4013.E. Specifically, the phase separated material drained from the sump water tank is subject to regulation as used oil under LAC 33:V.4003.C.3. Therefore, used oil was released from a used oil tank into an earthen ditch, which drained into an in-ground oil water separator.”

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, 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.

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 SIX THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$6,700.00), of which One Thousand One Hundred Fifty-Three and 97/100 Dollars (\$1,153.97) 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), the Consolidated Compliance Order & Notice of Potential Penalty 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 Lafayette Parish, Louisiana. The advertisement, in form and wording 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).

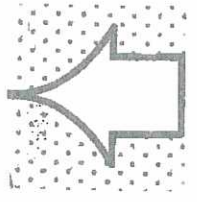
XII

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.

SOUTHERN RECYCLING, L.L.C.




BY: [Signature]
(Signature)

Tara Tomaszewicz
(Printed)

TITLE: Environmental Health & Safety Manager

THUS DONE AND SIGNED in duplicate original before me this 17th day of APRIL, 20 18, at NEW ORLEANS, LOUISIANA

[Signature]
NOTARY PUBLIC (ID # 131702)

 ERIKA STELZER FAUST
Notary Public
Notary ID No. 131702
St. Bernard Parish, Louisiana
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., 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 18, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary