

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MT. ZION C & D, L.L.C.

AI # 52368

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

* Settlement Tracking No.
* SA-MM-17-0041
*
* Enforcement Tracking No.
* SE-C-06-0177
* SE-CN-08-0558
* SE-PP-10-01831
* MM-CN-15-00558
* MM-CN-16-00700
*
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Mt. Zion C & D, 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 facility located in Shreveport, Caddo Parish, Louisiana (“the Facility”).

II

On September 29, 2006, the Department issued to Respondent a Compliance Order, Enforcement No. SE-C-06-0177 (Attachment A).

On February 12, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-08-0558 (Attachment B).

On May 22, 2011, the Department issued to Respondent a Notice of Potential Penalty,

Enforcement No. SE-PP-10-01831 (Attachment C).

On October 5, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-15-00558 (Attachment D).

On October 13, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-16-00700 (Attachment E).

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 THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$35,000.00), of which Three Thousand Ninety and 40/100 Dollars (\$3,090.40) 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).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), Compliance Order, Consolidated Compliance Orders & Notices of Potential Penalty, Notice of 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.

VI

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.

VII

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.

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 Respondent has 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 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.

X

Payment is to be made in monthly payments of \$2,916.67 for eleven (11) months (first payment due on or before July 31, 2017 and ending on May 31, 2018), and the final payment of \$2,916.63, due on or before June 30, 2018. 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).

XI

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

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.

MT. ZION C & D, L.L.C.

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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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:  _____
Lourdes Iturralde, Assistant Secretary

ATTACHMENT A



DEPARTMENT OF ENVIRONMENTAL QUALITY

KATHLEEN BABINEAUX BLANCO
GOVERNOR

MIKE D. McDANIEL, Ph.D.
SECRETARY

September 29, 2006

CERTIFIED MAIL (7004 1160 0001 9956 4324 / 4331)
RETURN RECEIPT REQUESTED

MT. ZION C & D, L.L.C.
c/o J. Whitney Pesnell
The Pesnell Law Firm (A Prof. Law Corp.)
Agent of Service
400 Travis St., Ste. 1100
Shreveport, Louisiana 71101

RE: COMPLIANCE ORDER
ENFORCEMENT TRACKING NO. SE-C-06-0177
AGENCY INTEREST NO. 52368

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **COMPLIANCE ORDER** is hereby served on **MT. ZION C & D, L.L.C. (RESPONDENT)** for the violation described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation cited in the **COMPLIANCE ORDER** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Tom Cranford at (225) 219-3789.

Sincerely,

Peggy M. Hatch
Administrator
Enforcement Division

PMH/TLC/tlc
Alt ID No. D-017-2819
Attachment

c: **MT. ZION C & D, L.L.C.**
687 Mt. Zion Road
Shreveport, Louisiana 71106

ENVIRONMENTAL COMPLIANCE
: PO BOX 4312, BATON ROUGE, LA 70821-4312
P:225-219-3700 F:225-219-3708
WWW.DEQ.LOUISIANA.GOV

Edwards
RF
TLC
NWRD

ENFORCEMENT DIVISION MEMO TO THE FILE

FACILITY: Mt. Zion C & D, L.L.C.

DATE: 10/30/06

INSPECTION DATE: 4/18/06

SUBJECT: NFA for citation (Type in citation, if applicable)

TRACKING NO.: SE-C-06-0177

NFA for referral

AI NUMBER: 52368

Information for file

ALT. ID NUMBER: D-017-2819

Information for file:

RETURNED MAIL:

The facility copy of this action was returned by the post office as unclaimed. The registered agent copy of the action was received by the facility on October 5, 2006.

Tom Cranford, October 30, 2006 *TC*
Name of ES, Date

Approved by:

Leigh Lauthreany 10.30.06
Name of Supervisor, Date

Approved by:

Jonde Ste 11/29/06
Name of Manager, Date

Approved by:

Kim M. Hatch 12-1-06
Administrator, Date

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

MT. ZION C & D, L.L.C.
CADDO PARISH
ALT ID NO. D-017-2819

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

*	
*	
*	ENFORCEMENT TRACKING NO.
*	
*	SE-C-06-0177
*	
*	AGENCY INTEREST NO.
*	
*	52368
*	
*	

COMPLIANCE ORDER

The following **COMPLIANCE ORDER** is issued to **MT. ZION C & D, L.L.C.** (**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) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates a type III construction / demolition debris landfill under Order to Upgrade OU-0155 that was issued on February 1, 1994, located at 687 Mt. Zion Road in Shreveport, Caddo Parish, Louisiana.

II.

Inspections conducted by the Department on or about April 18, 2006, April 24, 2006, May 4, 2006, and May 23, 2006, disclosed the following:

The Respondent failed to deposit waste in the smallest practical area each day, and cover with silty clays every fourteen (14) days, in violation of Interim Operational Plan for OU-0155, LAC 33:VII.901, and LAC 33:VII.721.A.2.b.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately cover, upon receipt of this **COMPLIANCE ORDER**, all waste that has been exposed for fourteen (14) days or longer with a minimum of twelve (12) inches of silty clay and to implement procedures to ensure that wastes are deposited in the smallest practical area each day and covered at least every fourteen (14) days.

II.

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

III.

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 violation 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: Tom Cranford
Enforcement Tracking No. SE-C-06-0177
Agency Interest No. 52368

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. SE-C-06-0177
Agency Interest No. 52368

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.

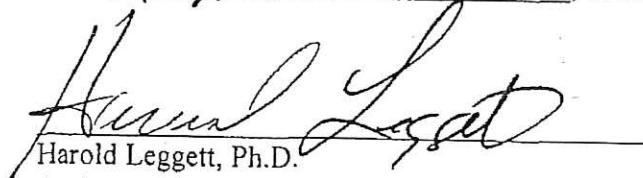
VII.

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.

VIII.

This **COMPLIANCE ORDER** is effective upon receipt.

Baton Rouge, Louisiana, this 29 day of September, 2006.



Harold Leggett, Ph.D.
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

7004 1160 0001 9956 4324

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here <i>TLC</i> <i>Caddo Parish</i> <i>AI# 52368</i> <i>SE-C-06-0177</i>
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To	<i>Mt. Zion C & D LLC</i>
Street, Apt. No., or PO Box No.	<i>687 MT. Zion Rd.</i>
City, State, ZIP+4	<i>Shreveport LA 71106</i>

