

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TRITON FUMIGATION, L.L.C.

AI # 195736

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

\* Settlement Tracking No.  
\* SA-HE-18-0008  
\*  
\* Enforcement Tracking No.  
\* HE-PP-15-00811  
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SETTLEMENT

The following Settlement is hereby agreed to between Triton Fumigation, 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 pest management office and warehouse facility located in Kenner, Jefferson Parish, Louisiana (“the Facility”).

II

On November 5, 2015, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. HE-PP-15-00811, attached as Exhibit A.

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 SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which Three Hundred Seventy-One and 41/100 Dollars (\$371.41) 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), 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.

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 Jefferson 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 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 B).

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.

**Triton Fumigation, L.L.C.**


BY: Patrick Mack  
(Signature)

Patrick Mack  
(Printed)

TITLE: co/owner

THUS DONE AND SIGNED in duplicate original before me this 24 day of Oct, 20 18, at Metairie LA.

Cs. Ullmann  
NOTARY PUBLIC (ID # 2333)

 CORNELIA S. ULLMANN  
Notary Public  
State of Louisiana  
Jefferson Parish  
Notary ID # 5238  
Bar Roll # 2333  
(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 29th day of Nov, 20 18, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary



BOBBY JINDAL  
GOVERNOR

PEGGY M. HATCH  
SECRETARY

State of Louisiana  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

November 5, 2015

CERTIFIED MAIL (7014 1200 0000 7863 9086)  
RETURN RECEIPT REQUESTED

**TRITON FUMIGATION, L.L.C.**  
c/o Patrick J. Russell  
Agent for Service of Process  
2839 Piedmont Street  
Kenner, LA 70062

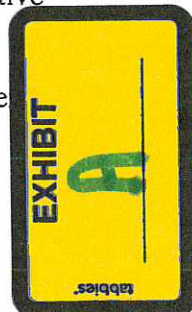
**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. HE-PP-15-00811  
AGENCY INTEREST NO. 195736**

Dear Sir:

On or about March 10, 2015, an inspection of **TRITON FUMIGATION, L.L.C.**, a pest management office and warehouse, owned and/or operated by **TRITON FUMIGATION, L.L.C. (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 2839 Piedmont Street in Kenner, Jefferson Parish, Louisiana. The facility utilizes aluminum phosphide sleeves to fumigate barges. After use, the sleeves are placed in drums at the facility to deactivate the aluminum phosphide before being disposed of as solid waste. The Respondent is classified as a conditionally exempt small quantity generator of hazardous waste and operates under EPA Identification No. LAR000085571.

On or about March 6, 2015, the Department received a complaint from the Environmental Manager at River Birch Landfill that hazardous material was improperly disposed of at the landfill by Triton Fumigation, L.L.C. The complainant stated that a River Parish Disposal front end loader garbage truck dumped a load of waste at River Birch Landfill. When the load was being pushed it began to smoke and burn, and when water was added, it reacted violently by hissing, spitting, and generating fumes. Sand was placed onto the reactive material and the waste was deactivated. The reactive material was determined to be six (6) fumigation sleeves which were picked up from Triton Fumigation, L.L.C. The fumigation sleeves contained unreacted aluminum phosphide and were determined to be a reactive hazardous waste (D003).

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





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- A. The Respondent failed to determine if solid wastes generated at its facility were hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent failed to determine whether or not the six (6) fumigation sleeves were hazardous waste before throwing them into the dumpster to be taken to River Birch Landfill. The fumigation sleeves contained unreacted Aluminum Phosphide which reacted violently with water, meeting the definition of a reactive hazardous waste (D003). According to the Respondent, the sleeves had been in a drum neutralizer at the facility since January 17, 2015, and should have been deactivated.
- B. The Respondent failed to dispose of hazardous waste at a permitted facility or a facility that has received an interim status, in violation of LAC 33:V.303.B. Specifically, the Respondent disposed of six (6) fumigation sleeves of reactive hazardous waste (D003) in the dumpster to be taken to River Birch Landfill, a facility that has not received an interim status or a standard permit.
- C. The Respondent failed to use a hazardous waste manifest to ship hazardous waste offsite, in violation of LAC 33:V.1107.A.1. Specifically, the Respondent did not use a hazardous waste manifest when six (6) fumigation sleeves of reactive hazardous waste (D003) were picked up and taken to River Birch Landfill.

As stated above, the situation at the landfill was stabilized by adding sand to the reactive hazardous waste (D003). On or about March 12, 2015, the Respondent submitted correspondence outlining procedures instituted at the facility to prevent recurrence of this type of incident. All of the above referenced violations have been addressed.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Cynthia Arrison at (225) 219-3796 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement.

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For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Chance McNeely". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

D. Chance McNeely  
Assistant Secretary  
Office of Environmental Compliance

DCM/CLA/cla  
Alt ID No. LAR000085571