

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-MM-18-0076
MCMANUS CONSTRUCTION, LLC	*	
	*	Enforcement Tracking Nos.
AI # 178514, 7744 AND 84822	*	SE-CN-07-0535
	*	MM-CN-10-00478
PROCEEDINGS UNDER THE LOUISIANA	*	AE-PP-11-01323
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between McManus Construction, 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 construction and demolition debris landfill facility located in Calcasieu Parish, Louisiana (“the Facility”).

II

On March 25, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-07-0535, attached as Exhibit A.

On July 15, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-10-00478, attached as Exhibit B.

On February 22, 2012, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-11-01323, attached as Exhibit C.

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 TWENTY TWO THOUSAND AND NO/100 DOLLARS (\$22,000.00), of which One Thousand Fifty-Eight and 94/100 Dollars (\$1,058.94) 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), Consolidated Compliance Orders & Notices of Potential Penalty and the 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 Calcasieu 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 D).

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.

McManus Construction, LLC

BY: 
(Signature)

Sheldon McManus
(Printed)

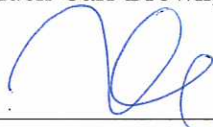
TITLE: Managing Member

THUS DONE AND SIGNED in duplicate original before me this 11th day of April, 20 19, at Lake Charles, LA.

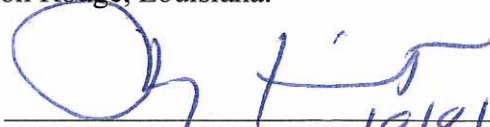

NOTARY PUBLIC (ID # 146510)

Heather LaFleur
(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 2nd day of Aug, 20 19, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: 
Lourdes Iturralde, Assistant Secretary



BOBBY JINDAL
Governor

HAROLD LEGGETT, Ph.D.
Secretary

Louisiana Department of Environmental Quality
Office of Environmental Compliance

March 25, 2008

CERTIFIED MAIL (7004 1160 0001 9951 6187 / 6194)
RETURN RECEIPT REQUESTED

MCMANUS CONSTRUCTION, INC.
c/o Sheldon J. McManus
Agent of Service
3955 U.S. Highway 90 East
Lake Charles, Louisiana 70615

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. SE-CN-07-0535
AGENCY INTEREST NO. 84822**


Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MCMANUS CONSTRUCTION, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** 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
Assistant Secretary

PMH/TLC/tlc
Attachment

Post Office Box 4312, Baton Rouge, Louisiana 70821-4312
(225) 219-3700 Phone (225) 219-3708 Fax
www.deq.louisiana.gov



c: McManus Construction, Inc.
Post Office Box 17110
Lake Charles, Louisiana 70616-7110

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**MCMANUS CONSTRUCTION, INC.
CALCASIEU PARISH**

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

*	
*	
*	ENFORCEMENT TRACKING NO.
*	
*	SE-CN-07-0535
*	
*	AGENCY INTEREST NO.
*	
*	84822
*	
*	

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MCMANUS CONSTRUCTION, INC. (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

1.

The Respondent owns and/or operates a debris management site located on Evergreen Road in Westlake, Calcasieu Parish, Louisiana. The facility has been operating in accordance with the 7th Declaration of Emergency and Administrative Order issued by the Department in the

aftermath of Hurricane Rita. An Order to Close (OC-0346) was issued April 11, 2007, to commence closure activity in accordance with the Interim Operational Plan and Closure Requirements. The Order to Close (OC-0346) ordered that closure activity be completed by June 20, 2007.

II.

On or about June 22, 2007, and October 30, 2007, compliance inspections were performed at the facility and noted the following:

- A. The Respondent failed to comply with the Order to Close in violation of LAC 33:VII.901. Specifically, during the June 22, 2007, inspection it was noted that the final cover was not completed and the site was not certified closed as required by the IOP/Closure Requirements.
- B. The Respondent caused and/or allowed the deposition of solid waste without a permit and/or other authority from the Department. Specifically, during the October 30, 2007, inspection it was noted that additional waste was deposited onto the Respondent's land. The Respondent's unauthorized disposal of solid waste is in violation of La. R.S. 30:2155, and LAC 33:VII.315.C.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind at the Site or any other site not permitted to receive such waste.

II.

To properly close the Site, within ten (10) days after receipt of this **COMPLIANCE ORDER**, by following all closure requirements of the IOP/Closure Requirements which includes, but is not limited to, applying the final cover to the exposed waste, deed recordation specifying that the property was used for the disposal of solid waste, and obtaining certification of closure.

III.

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

IV.

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-CN-07-0535
Agency Interest No. 84822

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-CN-07-0535
Agency Interest No. 84822

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.

NOTICE OF POTENTIAL PENALTY

I.

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.

II.

Prior to the issuance of additional appropriate enforcement action(s), 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 Tom Cranford at (225) 219-3789 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

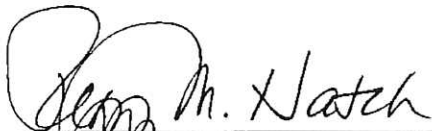
III.

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 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 violation(s) 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 that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL** is effective upon receipt.

Baton Rouge, Louisiana, this 25th day of March, 2008.



Peggy M. Hatch
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



BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 15, 2010

CERTIFIED MAIL (7005 1820 0002 2094 8325)
RETURN RECEIPT REQUESTED

MCMANUS CONSTRUCTION, INC.
c/o Sheldon J. McManus, Registered Agent
3955 Hwy 90 East
Lake Charles, LA 70615

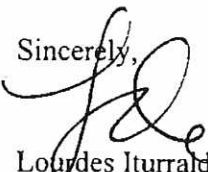
**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-10-00478
AGENCY INTEREST NO. 7744**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, *et seq.*), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MCMANUS CONSTRUCTION, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Elizabeth Kashefi Smith at (225) 219-3807.

Sincerely,

Lourdes Iturralde
Administrator
Enforcement Division

LI/eks/yw
Alt ID No. P-0371
D-019-2168
7777-00437
Attachment



**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**MCMANUS CONSTRUCTION, INC.
CALCASIEU PARISH
ALT ID NO. P-0371, D-019-2168
7777-000437**

*
*
* **ENFORCEMENT TRACKING NO.**
*
* **MM-CN-10-00478**
*
* **AGENCY INTEREST NO.**
*

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

* **7744**
*
*

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MCMANUS CONSTRUCTION, INC. (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), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates a construction and demolition debris landfill, located at 4128 Hwy 3059, Lake Charles, in Calcasieu Parish, Louisiana. The facility is authorized to operate as a Type III landfill under standard permit P-0371 issued on April 27, 2004, and Air Permit No. 7777-00437-00 issued on March 13, 2002.

II.

The Respondent is permitted to operate an air curtain destructor under standard permit P-0371. Under this permit, the Respondent is allowed to burn untreated lumber, yard and wood

wastes. An inspection conducted on February 19, 2010, discovered the air curtain destructor was not operating.

III.

On or about February 19, 2010, an inspection was conducted by a representative of the Department to determine the degree of compliance with the Act, the Louisiana Solid Waste Regulations and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

The Respondent engaged in and/or allowed open burning of solid waste, in violation of condition 5 of standard permit P-0371, section 721.C.1.b of the standard permit application, LAC 33:VII.721.C.1.b, LAC 33:VII.901.A, Specific Condition No. 1 of Air Permit No. 7777-00437-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Specifically, a mixture of construction and demolition debris, paper, plastics, cardboard and wood waste was being burned in a pit.

IV.

On or about April 27, 2010, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the file review:

According to Specific Condition No. 8 of Air Permit No. 7777-00437-00, the Respondent is required to keep a daily record of hours of operation. These records shall be kept on site and available for review by the Surveillance Division. Annual hours of operation shall be reported to the Office of Environmental Compliance by February 15, for the preceding calendar year. The Respondent failed to submit the facility's annual hours of operation for the calendar years of 2002 through 2009. Each failure to submit the facility's annual hours of operation for the calendar years of 2002 through 2009 is a violation of Specific Condition No. 8 of Air Permit No. 7777-00437-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, open burning solid waste. Any burning shall be conducted in accordance with standard permit P-0371 and Air Permit No. 7777-00437-00.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the annual hours of operation for the calendar years 2005 through 2009.

III.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Act, Louisiana Solid Waste Regulations, Air Quality Regulations, standard permit P-0371 and Air Permit No. 7777-00437-00.

IV.

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 violations 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: Elizabeth Kashefi Smith
Enforcement Tracking No. MM-CN-10-00478
Agency Interest No. 7744

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. MM-CN-10-00478
Agency Interest No. 7744

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.

NOTICE OF POTENTIAL PENALTY

I.

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.

II.

Prior to the issuance of additional appropriate enforcement action(s), 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 Elizabeth Kashefi Smith at (225) 219-3807 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

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 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 violation(s) 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 that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 15th day of July, 2010.



Paul D. Miller, P.E.
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: Roselle Foote



BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 22, 2012

CERTIFIED MAIL (7004 2510 0005 5753 7562)
RETURN RECEIPT REQUESTED

MCMANUS CONSTRUCTION, INC.
c/o Sheldon J. McManus
Agent for Service of Process
3955 Highway 90 East
Lake Charles, LA 70615

RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-11-01323
AGENCY INTEREST NO. 178514

Dear Sir:

On or about July 13, 2011 and August 4, 2011, inspections of a land clearing and excavation site operated by **MCMANUS CONSTRUCTION, INC. (RESPONDENT)**, were performed in response to citizen's complaints and to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The Respondent was conducting land clearing operation and excavation activities adjacent to CETCO Oilfield Services on Leslie Lane in Lake Charles, Calcasieu Parish, Louisiana.

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 inspections:

- A. An inspection of the excavation site operated by the Respondent was conducted on July 13, 2011. During the course of the inspection, the inspector observed and photographed dust blowing toward an Environmental Protection Agency (EPA) cleanup site, located across the street from the McManus work site, as tree waste and grub material were loaded into dump trucks with a trackhoe. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. An inspection of the excavation site by the Respondent was conducted on August 4, 2011, at approximately 9:30 a.m. During the course of the inspection, the inspector observed and photographed powdered lime soil stabilizer which had been applied to the ground. At an EPA cleanup site,



located across the street from the McManus work site, the inspector observed and photographed airborne lime dust blowing offsite toward the EPA cleanup site. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne during application of powdered lime soil stabilizer. This is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

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 Trisha Barbay at (225) 219-3169 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.

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,



Cheryl Sonnier Nolan
Assistant Secretary

CSN/TAB/tab

c: McManus Construction, Inc.
PO Box 17030
Lake Charles, LA 70616