

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BENSON ENVIRONMENTAL SERVICES  
OF LA, INC.

AI # 26944

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

\* Settlement Tracking No.  
\* SA-SE-19-0089  
\*  
\*  
\* Enforcement Tracking Nos.  
\* SE-CN-08-0269  
\* SE-CN-13-00725A  
\* SE-CN-17-00669  
\*  
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\*

SETTLEMENT

The following Settlement is hereby agreed to between Benson Environmental Services of LA, Inc. (“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 corporation that owns and/or operates a waste tire processing facility located in Sibley, Webster Parish, Louisiana (“the Facility”).

II

On May 6, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-08-0269 (Exhibit 1).

On November 18, 2014, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-13-00725A (Exhibit 2).

On February 2, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. SE-CN-17-00669 (Exhibit 3).

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-TWO THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$32,700.00), of which Two Thousand Six Hundred Seventy-Seven and 21/100 Dollars (\$2,677.21) 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), the Consolidated Compliance Orders & Notices of Potential Penalty, the Amended 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.

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 Webster 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 twenty four (24) consecutive monthly payments in the amount of

\$1,362.50 each, with the first payment being due on the 15<sup>th</sup> of the month following notice of the Secretary's signature, and like payments due on or before the 15th day of each consecutive calendar month thereafter until paid in full. 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.

**BENSON ENVIRONMENTAL SERVICES  
OF LA, INC.**

BY: J.A. Benson  
(Signature)

J.A. BENSON  
(Printed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 24<sup>th</sup> day of  
APRIL, 20 20, at SHREVEPORT, LA.

[Signature]  
NOTARY PUBLIC (ID # 08345)

Bobby D. Sutton, Sr  
(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 24<sup>th</sup> day of  
June, 20 20, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
\_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL  
GOVERNOR



HAROLD LEGGETT, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

May 6, 2008

CERTIFIED MAIL (7005 1820 0002 2095 2773/2780)  
RETURN RECEIPT REQUESTED

**BENSON ENVIRONMENTAL SERVICES OF LA, INC.**  
c/o Jim Benson  
Agent of Service  
201 Cross Creek  
Bossier City, Louisiana 71111

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. SE-CN-08-0269  
AGENCY INTEREST NO. 26944**

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 **BENSON ENVIRONMENTAL SERVICES OF LA, 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 Erin Dartez at (225) 219-3636.

Sincerely,

A handwritten signature in black ink that reads "L. Iturralde".

Lourdes Iturralde  
Administrator  
Enforcement Division

LI/AED  
Alt ID No. RPO-119-8327  
Attachment



c: Benson Environmental  
Post Office Box 239  
Sibley, Louisiana 71073

STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
BENSON ENVIRONMENTAL SERVICES	*	
OF LA, INC.	*	ENFORCEMENT TRACKING NO.
WEBSTER PARISH	*	
ALT ID NO. RPO-119-8327	*	SE-CN-08-0269
	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	26944
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, <u>ET SEQ.</u>	*	

CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BENSON ENVIRONMENTAL SERVICES OF LA, 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 waste tire shredding facility that processes waste tires to make tire derived fuel. The facility is known as Benson Environmental Services of LA and is located at 326 Crichton Road in Sibley, Webster Parish, Louisiana. The facility operates under waste tire permit number P-0309R1 and site number RPO-119-8327.



II.

On or about September 18, 2007, an inspection was conducted by the Department that revealed the following violations:

- A. The Respondent failed to notify the Department of a change in operational hours for the facility, in violation of Standard Permit P-0309R1, and LAC 33:VII.10537. This item has been addressed.
- B. The Respondent failed to store shredded waste tire material on a paved area, in violation of Standard Permit P-0309R1, Part III: Additional Supplementary Information.
- C. The Respondent stored waste tires in piles exceeding 10'H x 20'W x 200'L, in violation of Standard Permit P-0309R1, LAC 33:VII.10537, and LAC 33:VII.10525.D.8.
- D. The Respondent failed to maintain a 50' fire lane between waste tire piles, in violation of Standard Permit P-0309R1, LAC 33:VII.10537, and LAC 33:VII.10525.D.9.
- E. The Respondent stored waste tire material in the 100' buffer zone, in violation of Standard Permit P-0309R1, LAC 33:VII.10537, and LAC 33:VII.10525.D.2.

## COMPLIANCE ORDER

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

I.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, following the guidelines of the standard permit by storing shredded waste tire material awaiting shipment from the facility in the paved storage area.

II.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, storing waste tires and waste tire material so that the dimensions of ten (10) feet in height, twenty (20) feet in width, and two hundred (200) feet in length are not exceeded.

III.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, separating the waste tire material or waste tire piles by lanes with a minimum of fifty (50) feet between them to allow access by emergency vehicles and equipment.

IV.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, storing waste tire material in the hundred (100) foot buffer zone and to remove any material that is being stored in the buffer zone.

V.

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: Erin Dartez**  
**Enforcement Tracking No. SE-CN-08-0269**  
**Agency Interest No. 26944**

**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-08-0269**  
**Agency Interest No. 26944**

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 Erin Dartez at (225) 219-3636 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

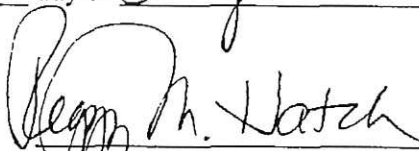
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current

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 6<sup>th</sup> day of May, 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

November 18, 2014

CERTIFIED MAIL (7005 1820 0002 2365 4124)  
RETURN RECEIPT REQUESTED

**BENSON ENVIRONMENTAL SERVICES OF LA, INC.**  
c/o Jim Benson  
Agent for Service of Process  
201 Crosscreek  
Bossier City, LA 71111

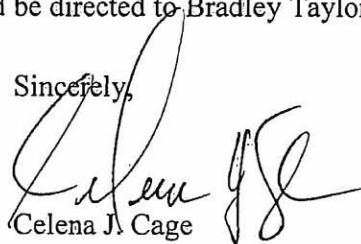
**RE: AMENDED COMPLIANCE ORDER**  
**ENFORCEMENT TRACKING NO. SE-CN-13-00725A**  
**AGENCY INTEREST NO. 26944**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED COMPLIANCE ORDER** is hereby served on **BENSON ENVIRONMENTAL SERVICES OF LA, INC. (RESPONDENT)** for the violation described therein.

Any questions concerning this action should be directed to Bradley Taylor at (225) 219-3805.

Sincerely,

  
Celena J. Cage  
Administrator  
Enforcement Division

CJC/BST/bst  
Alt ID No. RTP-119-8327  
Attachment



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

<b>IN THE MATTER OF</b>	*	
	*	
<b>BENSON ENVIRONMENTAL SERVICES OF LA, INC. WEBSTER PARISH ALT ID NO. RTP-119-8327</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
	*	
	*	<b>SE-CN-13-00725A</b>
	*	
	*	<b>AGENCY INTEREST NO.</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT, La. R.S. 30:2001, ET SEQ.</b>	*	<b>26944</b>
	*	

**AMENDED COMPLIANCE ORDER**

The Louisiana Department of Environmental Quality (the Department) hereby amends the **COMPLIANCE ORDER, ENFORCEMENT TRACKING NO. SE-CN-13-00725** issued to **BENSON ENVIRONMENTAL SERVICES OF LA, INC. (RESPONDENT)** on August 29, 2013, in the above-captioned matter as follows:

I.

The Department hereby amends paragraph II, item C of the Findings of Fact to read as follows:

“C. The Respondent failed to maintain an inventory of less than or equal to 450,000 whole waste tires or a combined equivalent of 9,000,000 pounds of whole and shredded tires, in accordance with LAC 33:VII.10517.A.13.e.ii of the Standard Waste Tire Permit Application and paragraph 2.8 of the Standard Waste Tire Permit Application Operational Plan, in violation of Conditions 7 and 8 of Standard Waste Tire Permit P-00309R2, LAC 33:VII.10525.D.6, and LAC 33:VII.901.A. Specifically, the Respondent’s June 2013 monthly inventory report determined that there were approximately 657,310 waste tires or shredded waste tire material at the Site. According to a report submitted by the Respondent, 18,792,640 pounds of whole and shredded tires were stored at the Site at the end of September 2014.”



II.

The Department hereby amends paragraphs V, VI, and IX of the **COMPLIANCE ORDER** portion to read as follows:

“V.

To submit, by 4:30 P.M. on November 30, 2014, a waste tire minimization plan for the Department’s approval that addresses the following: removal of all eligible and ineligible waste tires/ tire material so that the total amount on site does not exceed 450,000 or 9,000,000 pounds, and the means by which the facility will attain compliance with Standard Permit P-0309R2. Additionally, the plan shall include time frames for completion of all phases of work and shall be implemented upon the Department’s approval.

VI.

To accept waste tires in a manner so that the incoming rate of waste tires accepted at the Site does not exceed the outgoing rate of processed and/or otherwise shipped waste tires from the Site until compliance with Standard Permit P-0309R2 has been achieved, or until otherwise notified in writing by the Department.

IX.

To conduct, immediately upon receipt of this **COMPLIANCE ORDER**, daily verification of all incoming and outgoing shipments of waste tires/tire material and submit daily reports to the Enforcement Division. These reports shall also contain a daily total of waste tires/tire material stored on Site at the end of each operating day. Each daily report shall be submitted by 10:00 A.M on the following work day by email to Bradley.Taylor@la.gov or by fax to (225)219-0848.”

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **AMENDED COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violation added in this **AMENDED COMPLIANCE ORDER** and actions taken or to be taken to achieve compliance with the Order Portion of this **AMENDED COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **AMENDED COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance  
Post Office Box 4312  
Baton Rouge, Louisiana 70821-4312  
**Attn: Bradley Taylor**  
**Re: Enforcement Tracking No. SE-CN-13-00725A**  
**Agency Interest No. 26944**


IV.

The Department incorporates all of the remainder of the original **COMPLIANCE ORDER, ENFORCEMENT TRACKING NO. SE-CN-13-00725** and **AGENCY INTEREST NO. 26944** as if reiterated herein.

V.

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

Baton Rouge, Louisiana, this 18 day of November, 2014.

  
\_\_\_\_\_  
Cheryl Sonnier Nolan  
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  
Post Office Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Bradley Taylor



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE  
February 2, 2018

CERTIFIED MAIL (7014 1200 0000 7863 8416)  
RETURN RECEIPT REQUESTED

**BENSON ENVIRONMENTAL SERVICES OF LA, INC.**  
c/o Jim Benson  
Agent for Service of Process  
201-Crosscreek  
Bossier City, LA 71111

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. SE-CN-17-00669  
AGENCY INTEREST NO. 26944**

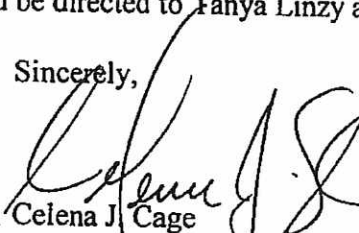
Dear Sir:

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 **BENSON ENVIRONMENTAL SERVICES OF LA, INC. (RESPONDENT)** for the violations described therein.

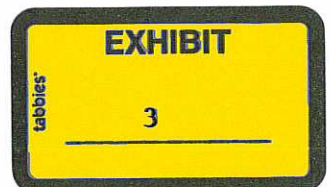
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Tanya Linzy at (225) 219-3069.

Sincerely,

  
Celena J. Cage  
Administrator  
Enforcement Division

CJC/TJL/tjl  
Alt ID No. RPO-119-8327, P-0309R3  
Attachment



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

<b>IN THE MATTER OF</b>	*	
	*	
<b>BENSON ENVIRONMENTAL SERVICES OF LA, INC.</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
	*	
<b>WEBSTER PARISH</b>	*	<b>SE-CN-17-00669</b>
<b>ALT ID NO. RPO-119-8327; P-0309R3</b>	*	
	*	
	*	<b>AGENCY INTEREST NO.</b>
<b>PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT, La. R.S. 30:2001, ET SEQ.</b>	*	<b>26944</b>
	*	

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BENSON ENVIRONMENTAL SERVICES OF LA, 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 waste tire processing facility, located at 326 Crichton Road in Sibley, Webster Parish, Louisiana. The facility, identified by identification number RPO-119-8327, operates under solid waste permit P-0309R3.

II.

Consolidated Compliance Order & Notice of Potential Penalty SE-CN-13-00725 was issued to the Respondent on or about August 29, 2013, and received on September 9, 2013, for violations of the Solid Waste Regulations noted during an inspection conducted on or about August 5, 2013. The Respondent submitted a written response to the Department on or about September 24, 2013. The

enforcement action was appealed and the Respondent and the Department agreed to enter into a Dispute Resolution Discussion on or about October 29, 2013. Also, the enforcement action was amended and SE-CN-13-00725A was issued to the Respondent on or about November 18, 2014, and received on or about December 16, 2014.

III.

Effective February 20, 2016, the Department amended LAC 33:VII.Chapter 105 (Waste Tires). Inspections conducted prior to this date which noted violations cite the regulations effective at that time. However, inspections conducted on or after February 20, 2016, cite violations of the amended regulations. Therefore, the Respondent is ordered to comply with the regulations currently in effect.

IV.

On or about February 11, 2016, and March 15, 2017 representatives of the Department performed inspections, and a subsequent file review on December 19, 2017, of the facility and noted the following violations:

- A. The Respondent failed to store waste tires and waste tire material in piles that do not exceed ten (10) feet in height, twenty (20) feet in width, and two hundred (200) feet in length, in violation of Standard Waste Tire Permit P-00309R3, LAC 33:VII.10525.D.8, Consolidated Compliance Order & Notice of Potential Penalty SE-CN-13-00725A, and LAC 33:VII.901.A. Specifically, piles of waste tires stored outside during the February 11, 2016 inspection exceed the required dimensions.
- B. The Respondent failed to maintain fire lanes at a minimum width of fifty (50) feet between waste tire piles, in violation of Standard Waste Tire Permit P-0309R3, LAC 33:VII.10525.D.9, Consolidated Compliance Order & Notice of Potential Penalty SE-CN-13-00725A, and LAC 33:VII.901.A. Specifically, during the February 11, 2016 inspection, fire lanes throughout the yard were spaced considerably less than fifty (50) feet apart.
- C. The Respondent failed to store no more than nine hundred seventy-two thousand (972,000) passenger tire equivalents (PTE), in violation of Specific Requirement R-39 of Standard Waste Tire Permit P-0309R3, LAC 33:VII.10525.G.12, Consolidated Compliance Order & Notice of Potential Penalty SE-CN-13-00725A, and LAC 33:VII.901.A. Specifically, during the March 15, 2017 inspection the Respondent provided a waste tire inventory report for February 2017, which listed one million,

seventy-three thousand, two hundred seventy-three (1,073,273) PTE for the month. A subsequent file review conducted on December 22, 2017, revealed the Respondent reported a waste tire inventory of one million, five hundred nineteen thousand, eight hundred sixty-eight (1,519,868) PTE for November 2017.

- D. The Respondent failed to maintain a site closure financial assurance fund in the amount based on the maximum number of pounds of waste tires and/or waste tire material stored at the processing facility site at any one time, in violation of LAC 33:VII.10525.G.14. Specifically, the Respondent has a letter of credit in the amount of two hundred thousand dollars (\$200,000), however a review conducted on or about February 6, 2018, of the Respondent's Waste Tire Request for Payment Report revealed the actual waste tire clean-up cost is approximately three hundred forty-five, thousand two hundred forty-two dollars (\$345,242).

### **COMPLIANCE ORDER**

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Solid Waste Regulations and Permit P-0309R3.

II.

To reduce and maintain, within fifteen (15) days of receipt of this **COMPLIANCE ORDER**, the size of any waste tire pile at the facility so that the dimensions of the pile do not exceed ten (10) feet in height, twenty (20) feet in width, and two hundred (200) feet in length, in accordance to Specific Requirement R-35 of Standard Waste Tire Permit RP-0309R3, and LAC 33:VII.10525.G.9.

III.

To increase and maintain, within fifteen (15) days of receipt of this **COMPLIANCE ORDER**, the width of any lane between waste tire piles so that the minimum width of the lane is fifty (50) feet, in accordance to Specific Requirement R-36 of Standard Waste Tire Permit RP-0309R3, and LAC 33:VII.10525.G.10.

IV.

To reduce and maintain, within fifteen (15) days of receipt of this **COMPLIANCE ORDER**, the monthly waste tire inventory to less than or equal to nine hundred seventy-two thousand (972,000) PTE

in accordance with Specific Requirement R-39 of Standard Waste Tire Permit RP-0309R3, and LAC 33:VII.10525.G.12.

V.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure a site closure financial assurance fund is maintained in the amount based on the maximum number of pounds of waste tires and/or waste tire material stored at the processing facility site at any one time.

VI.

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  
Attn: Tanya Linzy  
Re: Enforcement Tracking No. SE-CN-17-00669  
Agency Interest No. 26944

**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-17-00669**  
**Agency Interest No. 26944**

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 Tanya Linzy at (225) 219-3069 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. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

IV.

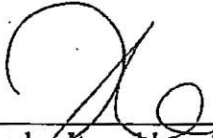
The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement

amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

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

Baton Rouge, Louisiana, this 2<sup>nd</sup> day of February, 2018.

  
\_\_\_\_\_  
Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

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Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Tanya Linzy



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
 OFFICE OF ENVIRONMENTAL COMPLIANCE  
 ENFORCEMENT DIVISION  
 POST OFFICE BOX 4312  
 BATON ROUGE, LOUISIANA 70821-4312

CONSOLIDATED COMPLIANCE ORDER &  
 NOTICE OF POTENTIAL PENALTY  
 REQUEST TO CLOSE

Enforcement Tracking No.	SE-CN-17-00669	Contact Name	Tanya Linzy
Agency Interest (AI) No.	26944	Contact Phone No.	(225) 219-3069
Alternate ID No.	RPO-119-8327, P-0309R3		
Respondent:	BENSON ENVIRONMENTAL SERVICES OF LA, INC.	Facility Name:	BENSON ENVIRONMENTAL SERVICES OF LA, INC
	c/o Jim Benson	Physical Location:	326 Chritch-ton Road
	Agent for Service of Process		
	201 Crosscreek	City, State, Zip:	Sibley, LA
	Bossier City, LA 71111	Parish:	Webster Parish

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph VI of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (SE-CN-17-00669), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (SE-CN-17-00669), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (SE-CN-17-00669) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above,

*are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.*

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

**MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:**

Louisiana Department of Environmental Quality  
 Office of Environmental Compliance  
 Enforcement Division  
 P.O. Box 4312  
 Baton Rouge, LA 70821  
 Attn: Tanya Linzy