

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CLEAN HARBORS COLFAX, LLC

AI # 32096

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

- * Settlement Tracking No.
- * SA-MM-20-0082
- * Enforcement Tracking Nos.
- * MM-CN-16-01015
- * AE-CN-17-00062
- * AE-PP-17-00520
- * MM-CN-18-00108
- * AE-PP-18-00143
- * MM-CN-18-00649
- * MM-P-18-00537
- * AE-PP-19-00156
- * AE-PP-19-00675
- * MM-CN-19-01210
- * Docket Nos. 2018-0398-EQ, c/w
- * 2018-3105-EQ, 2018-3984-EQ,
- * 2019-1066-EQ, 2019-1067-EQ,
- * and 2020-2110-DEQ

SETTLEMENT

The following Settlement is hereby agreed to between Clean Harbors Colfax, 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 hazardous waste treatment facility located in Colfax, Grant Parish, Louisiana (“the Facility”).

II

On October 27, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-16-01015 (Exhibit A).

On February 7, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-17-00062 (Exhibit B).

On July 18, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-17-00520 (Exhibit C).

On March 23, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-18-00108 (Exhibit D).

On April 11, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-18-00143 (Exhibit E).

On November 13, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-18-00649 (Exhibit F).

On November 19, 2018, the Department issued to Respondent a Penalty Assessment, Enforcement No. MM-P-18-00537 (LDEQ-Electronic Document Management System (EDMS) Document ID No. 11411835). This enforcement action is not attached as an exhibit due to the size of the document.

On May 10, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-19-00156 (Exhibit G).

On September 10, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-19-00675 (Exhibit H).

On December 27, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-19-01210 (Exhibit I).

III

In response to the Consolidated Compliance Orders & Notices of Potential Penalty and the Penalty Assessment, Respondent made timely requests for hearings.

IV

The Department also issued Warning Letters to Respondent under the following Enforcement Tracking Nos.:

AE-L-17-00062, AE-L-17-00255, AE-L-17-00520, AE-L-17-00649, AE-L-18-00124, AE-L-18-00125, AE-L-18-00126, AE-L-18-00128, AE-L-18-00129, AE-L-18-00130, AE-L-18-00143, AE-L-18-00303, AE-L-18-00331, AE-L-18-00332, AE-L-18-00333, AE-L-18-00334, AE-L-18-00487, AE-L-18-00488, AE-L-18-00527, AE-L-18-00616, AE-L-18-00636, MM-L-18-00649, AE-L-18-00940, AE-L-18-00941, AE-L-18-01006, AE-L-19-00027, AE-L-19-00028, AE-L-19-00155, AE-L-19-00156, AE-L-19-00495, AE-L-19-00498, AE-L-19-00602, AE-L-19-00603, AE-L-19-00604, AE-L-19-00670, AE-L-19-00671, AE-L-19-00672, AE-L-19-00673, AE-L-19-00674, AE-L-19-00675, AE-L-19-00937, AE-L-19-00938, WE-L-19-01132, AE-L-20-00605, AE-L-20-00755, AE-L-20-00757, and HE-L-20-00769

V

In addition to the violations cited in the Consolidated Compliance Orders and Notices of Potential Penalty, this settlement also resolves the following violations:

AE-L-20-00605, AE-L-20-00755, and AE-L-20-00757

On or about April 17, 2020, April 24, 2020, April 24, 2020, and May 6, 2020, the Department conducted Complaint Investigations in response to multiple citizens' complaints [Department Incident Numbers T196302, T196306, T196351, T196370, T196386, T196399, T196411, T196459, T196502, T196504, T196523, T196605, T196631, and T196692]. The investigations were conducted to determine the Respondent's degree of compliance with the Act, the Air Quality Regulations, and applicable permits. The Department issued Warning Letters, Enforcement Tracking Nos. AE-L-20-00605, AE-L-20-00755, and AE-L-20-00757, to the

Respondent on September 1, 2020, and November 5, 2020, respectively. The Respondent submitted responses to the Warning Letters on October 13, 2020, and November 18, 2020. While the Department’s investigation is not complete, the following violations were noted during the course of these investigations:

The Respondent is permitted for the smoldering of residual materials following each burn/detonation for no more than forty-five (45) minutes per each individual burn/detonation event. The table below contains specific information regarding the inspectors’ reviews of the facility’s treatment logs and noted burn times that exceeded the forty-five (45) minutes smoldering limit:

	BURN LOG DATE (TREATMENT TIME)	PERMITTED SMOLDERING TIME	RECORDED SMOLDERING TIME
i.	April 13, 2020 (3:00 PM)	45 minutes	49 minutes
ii.	April 14, 2020 (3:00 PM)	45 minutes	49 minutes
iii.	April 15, 2020 (3:00 PM)	45 minutes	49 minutes
iv.	April 17, 2020 (3:00 PM)	45 minutes	49 minutes
v.	April 20, 2020 (3:00 PM)	45 minutes	49 minutes
vi.	April 21, 2020 (3:00 PM)	45 minutes	49 minutes
vii.	April 22, 2020 (12:00 PM)	45 minutes	49 minutes
viii.	April 24, 2020 (3:00 PM)	45 minutes	49 minutes
ix.	April 27, 2020 (3:00 PM)	45 minutes	49 minutes

Each failure to comply with the permitted smoldering time is a violation of Specific Requirement 3.8 of Permit No. 1120-00010-05AA, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In the Response to Warning Letters dated October 13, 2020, and November 18, 2020, the Respondent reported personnel were retrained on the permit conditions to ensure there is no recurrence of the issue.

HE-L-20-00769

On or about June 30, 2020, the Department performed an inspection of the Respondent's Facility to determine compliance with the Act, the Hazardous Waste Regulations, and applicable permits. The Department issued a Warning Letter, Enforcement Tracking No. HE-L-20-00769, to the Respondent on November 9, 2020. The Respondent submitted a response to the Warning Letter on December 8, 2020. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to properly remedy, immediately upon discovery, any deterioration or malfunction of equipment or structure(s) (e.g., burn trays, thermal treatment pad, etc.) associated with the hazardous waste-permitted Thermal Treatment Area, in violation of Hazardous Waste TSD Operating Permit Condition V.D.1.c.ii and iii; LAC 33:V.1509.C; LAC 33:V.309.A. Specifically, during the Department's inspection of the Thermal Treatment Area, the Department observed the following deteriorations within the Thermal Treatment Area: 1) several cracks and gaps in the concrete curbing/containment; 2) metal coverings inhibiting the inspection of the pad walls of treatment pads designated as Nos. 9, 10, and 20; and 3) deterioration/damage (including cracks, gaps, and missing structural components) to treatment pads designated as Nos. 1, 9, 10, 12, and 13. Condition V.D.1.c.iii of the Respondent's Hazardous Waste TSD Operating Permit stipulates that all defects, deteriorations, and/or malfunctions of the Thermal Treatment Area shall be repaired before additional treatment occurs within those impacted treatment pads.
- B. The Respondent failed to adequately prevent residue and debris from contaminating the surrounding area associated with the hazardous waste-permitted Thermal Treatment Area, in violation of Hazardous Waste TSD Operating Permit Condition V.D.1.b.xxi; LAC 33:V.309.A; and LAC 33:V.3203. Specifically, ash was observed on the soil outside of the Thermal Treatment Area's secondary containment berm wall near treatment pads designated Nos. 5, 7, and 8. The gaps and cracks, observed in the concrete burn slab, provide a potential conduit for ash to contaminate the soil below the concrete slab.
- C. The Respondent failed to label or clearly mark waste batteries or a container storing waste batteries with any one (1) of the following phrases: "Universal Waste— Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)," in violation of LAC 33:V.3823.A.1. Specifically, during the inspection, the Department observed eight (8) spent vehicle batteries in an open tray that were not labeled as required.

- D. The Respondent failed to record the date and nature of repairs associated with the hazardous waste-permitted Thermal Treatment Area, in violation of Hazardous Waste TSD Operating Permit Condition V.D.1.c.vi; LAC 33:V.1509.D; LAC 33:V.309.A. Specifically, the Department reviewed invoices, work orders for repairs made, burn logs, and inspection logs regarding the Thermal Treatment Area repairs for the months of August 2019, April 2020, and July 2020. The records associated with the Thermal Treatment Area failed to specify which pads were repaired, the date the pads were repaired, or the person(s) conducting the repair(s).

VI

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VII

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 HUNDRED FIVE THOUSAND AND NO/100 DOLLARS (\$605,000.00), of which FORTY-FOUR THOUSAND SIX HUNDRED ELEVEN AND 01/100 DOLLARS (\$44,611.01) 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).

VIII

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

IX

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.

X

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.

XI

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.

XII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Grant 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.

XIII

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 J).

XIV

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

XV

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.

CLEAN HARBORS COLFAX, LLC

BY: Cia Jarrell
(Signature)

Eric Jarrell
(Printed)

TITLE: Attorney

THUS DONE AND SIGNED in duplicate original before me this 1st day of February, 2022, at New Orleans, LA.

[Signature]
NOTARY PUBLIC (ID # 29192)

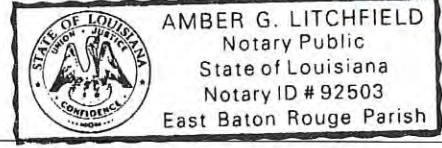
Michael Corniglia
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Celena Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 8th day of March, 2022, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

OCT 27 2016

CERTIFIED MAIL (7005 1820 0002 2365 6067)
RETURN RECEIPT REQUESTED

CLEAN HARBORS COLFAX, LLC
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-16-01015
AGENCY INTEREST NO. 32096**

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 **CLEAN HARBORS COLFAX, LLC (RESPONDENT)** for the violation(s) described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) 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 Craig Easley at (225) 219-3801.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/kce/wrs/afc
Alt ID Nos. LAD981055791; 1120-00010; LA0101931
Attachment



c: Clean Harbors Colfax, LLC
3763 Louisiana Highway 471
Colfax, Louisiana 71417

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

IN THE MATTER OF	*	
	*	
CLEAN HARBORS COLFAX, LLC	*	ENFORCEMENT TRACKING NO.
GRANT PARISH	*	
ALT ID NOS. LAD981055791; 1120-00010;	*	MM-CN-16-01015
LA0101931	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	32096
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **CLEAN HARBORS COLFAX, LLC (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 the Colfax facility (facility), a hazardous waste treatment facility, located at 3763 Louisiana Highway 471 in Colfax, Grant Parish, Louisiana. The Respondent owns and/or operates an explosive and reactive waste treatment facility known to the Department as Clean Harbors Colfax, LLC located at 3763 Highway 471, Colfax, Rapides Parish, Louisiana. The facility is a permitted hazardous waste storage, treatment, and disposal (TSD) facility that thermally treats reactive and explosive wastes and operates under EPA Identification Number LAD981055791. The Department issued the Respondent a Hazardous Waste TSD Operating Permit No. LAD981055791-OP-RN-1 that became effective on October 26, 2007, and expires on October 26, 2017. The Respondent is authorized to discharge storm water runoff and treated sanitary wastewater into an unnamed ditch, thence into Summerfield Branch, thence into Bayou Grappe, then into the Red River, waters of the state, under the terms and conditions of Louisiana Pollutant Discharge Elimination System (LPDES) Permit

No. LA0101931, issued to the Respondent on August 1, 2011, with an effective date of September 1, 2011, and an expiration date of August 31, 2016. The Respondent submitted a permit application for the renewal of LPDES Permit No. LA0101931 on or about January 27, 2016. The application was determined by the Department to be administratively complete on February 3, 2016, therefore, LPDES Permit No. LA0101931 has been administratively continued. The facility operates or has operated under the authority of the following Minor Source Air Permits:

UNIT	PERMIT	ISSUE DATE
Facility	1120-00010-04AA	10/13/2014
	1120-00010-04	08/07/2014
	1120-00010-03	02/08/2010

II.

The facility is located on approximately a 730-acre site. The Respondent's hazardous waste thermal treatment operations are conducted in an area designated as the "Thermal Treatment Area" (a/k/a the "Open Burn Area Operations"). The Thermal Treatment Area is approximately forty-three (43) acres and located near the center of the facility. The permitted Thermal Treatment Area is composed of twenty (20) curbed concrete treatment pads set upon a 700' x 130' reinforced concrete slab. The treatment pads are each equipped with an interchangeable burner assembly made up of an open steel tray or a steel-lined concrete burn chamber. The Respondent also operates the following permitted hazardous waste management units (as authorized by LAD981055791-OP-RN-1):

- ten (10) on-site hazardous waste storage magazines;
- the Preparation Building;
- the Liquids Storage Building
- the Truck Staging and Bulk Ash Storage Area; and
- the Less than 24-Hour Truck Staging Area.

III.

The Respondent thermally treats numerous explosive and reactive wastes that are classified as characteristic and listed hazardous wastes as authorized by Hazardous Waste TSD Operating Permit (LAD981055791-OP-RN-1). The Respondent is authorized to thermally treat 561,700 lbs. of explosive/reactive hazardous waste per year. In addition to thermally treating numerous characteristic

hazardous waste streams, the Respondent also thermally treats and/or generates the following listed hazardous wastes:

K044	P105	U108
K045	P112	U115
K046	U069	U117
P009	U088	U133
P048	U096	U160
P065	U105	U234
P081		

IV.

The facility operates a surface impoundment designated as the "Retention Pond." The Retention Pond was constructed in approximately 1993. The Retention Pond is approximately 350' x 100' x 20' and is located on the northeast side of the Thermal Treatment Area. The Retention Pond receives stormwater from the Thermal Treatment Area via three (3) sumps installed within the concrete pad underlying the Thermal Treatment Area.

V.

During site visits to the Respondent's facility conducted by the Department on June 1 & 15, 2016, to coordinate the sampling event described in Findings of Fact Paragraph VII, Department personnel observed: 1) deteriorations in the joint sealants and pitted and cracked concrete in the thermal treatment area; 2) corrosion, cracks, and deterioration of the metal components of the hazardous waste trays in the thermal treatment area; 3) the dispersion of hazardous waste ash residues near the listed hazardous waste treatment trays due to the use of leaf blowers following thermal hazardous waste treatment; and 4) ash/treatment residues on the concrete pad associated with the Thermal Treatment Area. During a subsequent site visit to the Respondent's facility conducted by the Department on July 25, 2016, Department personnel discussed these aforementioned deteriorations with representatives of the Respondent. Subsequent to the Department's July 25, 2016 site visit, the Respondent executed corrective actions to address the deteriorations in the Thermal Treatment Area observed by Department personnel.

VI.

In accordance with Permit Condition V.G of the Hazardous Waste TSD Operating Permit, the Respondent has implemented a tiered environmental media monitoring protocol (Tiers I, II, and III) to evaluate the potential for, and/or severity of, environmental contamination as a result of the Respondent's thermal treatment operations. Tier I requires the Respondent to monitor for the release of hazardous constituents to soil and/or surface water. Tier II requires the Respondent to delineate the extent of a release of hazardous waste constituents, and Tier III requires the implementation of revised thermal treatment operating conditions, permit conditions, and/or corrective actions. Sampling and analysis data included in the Respondent's Tier I - 1st Quarter 2016 Monitoring Report indicated that constituent of concern concentrations exceeded applicable regulatory and/or environmental quality standards (e.g., Risk Evaluation/Corrective Action Program (RECAP) screening standards, surface water quality standards, etc.) for the following parameters:

Location	Parameter	Regulatory Standard	Result
Soil/Sediment Samples			
SED-1	Methyl chloride	100 µg/kg	103 µg/l
SED-1	Lead	100 mg/kg	328 mg/kg
20	Lead	100 mg/kg	113 mg/kg
SS1	Lead	100 mg/kg	363 mg/kg
Surface Water Samples			
SW-1	Antimony	260 µg/l	10.9 µg/l
SW-1	Lead	50 µg/l	21.1 µg/l
SW-1	HMX	1700 µg/l	2.7 µg/l
SW-1	Perchlorate	23 µg/l	249 µg/l
SW-2	Antimony	260 µg/l	12.6 µg/l
SW-2	Lead	50 µg/l	18.6 µg/l
SW-2	Perchlorate	23 µg/l	238 µg/l

SED = sediment in pond

SS1 = stream bed

20 & 21 are incremental samples from near the pond

SW = surface water in pond

VII.

In accordance with the terms of its Hazardous Waste TSD Operating Permit, the Respondent developed a Ground Water Sampling and Analysis Plan (SAP). The SAP was approved by the Department on April 15, 2016. Four (4) existing monitoring wells (designated as P-3, P-4, P-5 and MW-2) were sampled by the Respondent on June 22, 2016. Total arsenic, chromium, and lead concentrations exceeded RECAP groundwater screening standards (GWss) in Well P-4. Total perchlorate concentrations exceeded GWss in Wells P-3, P-5 and MW-2. Explosive compound HMX was detected

but below the GWss in Wells P-5 and MW-2. Explosive compound RDX was detected above the GWss in Wells P-5 and MW-2. The Respondent conducted a Tier II groundwater sampling event on or about June 22, 2016. The sampling and analysis results associated with constituents of concern associated with the groundwater sampling event are summarized in the table below:

Well	Parameter	Concentration (ug/l)	RECAP GWss
P-4	Arsenic	48.8*	10
P-4	Chromium	113*	100
P-4	Lead	172*	15
P-3	Perchlorate	6.6	2.6
P-5	Perchlorate	12.2	2.6
MW-2	Perchlorate	117 119 (duplicate)	2.6

*Total metal concentration (not dissolved metal concentration)

VIII.

In correspondence dated October 10, 2016, the Department informed the Respondent that the sampling and analysis data associated with the June 22, 2016 groundwater monitoring event described in Findings of Fact Paragraph VII indicated a release of pollutants to groundwater at the Respondent's facility. The correspondence required the Respondent to submit, within sixty (60) days of receipt of the correspondence, a RECAP Site Investigation Work Plan in order to determine the full vertical and horizontal extent of the release of constituents of concern to groundwater.

IX.

On or about October 10-19, 2016, the Department conducted a Multimedia Compliance Evaluation Inspection (the Inspection) to determine the Respondent's degree of compliance with the Hazardous Waste TSD Operating Permit No. LAD981055791-OP-RN-1, LPDES Permit LA0101931, Minor Source Air Permit 1120-00020-04AA and the applicable Hazardous Waste, Solid Waste, Water Quality and Air Quality Regulations. The Department also conducted an extensive file review of facility for October 5, 2016--October 20, 2016.

While the Department's investigation is not complete, the following violations of Hazardous Waste TSD Operating Permit No. LAD981055791-OP-RN-1 and applicable Hazardous Waste and/or Solid Waste regulations were noted during the course of the inspection and/or file review:

- A. The Respondent operated a surface impoundment managing hazardous waste without a permit or other authorization, in violation of LAC 33:V.303.B. Specifically, the Retention Pond described in Findings of Fact Paragraph IV received characteristic and/or listed

hazardous wastes originating from the Thermal Treatment Area. The Louisiana Hazardous Waste Regulations prohibit the operation of surface impoundments that receive characteristic and/or listed hazardous waste streams.

- B. The Respondent failed to make a proper determination whether generated solid wastes were hazardous waste, in violation of LAC 33:V.1103. Specifically, the Respondent failed to determine whether the following solid wastes were hazardous wastes:
1. stormwater/wastewater contaminated with waste residues originating from the thermal treatment area;
 2. sediment/sludge removed from the Retention Pond; and
 3. solid waste generated as a result of the decontamination of the Thermal Treatment Area with muriatic acid.
- C. The Respondent failed to determine whether a waste listed in LAC 33:V.4901 or LAC 33:V.4903 met applicable treatment standards specified in LAC 33:V.Chapter 22 prior to land disposal. Specifically, in late 2011, the facility removed sediments/sludge from the Retention Pond for off-site disposal. A review of hazardous waste manifests associated with the disposed sediment/sludge indicated that the hazardous waste was classified as characteristically toxic for lead (D008). The sediments/sludges that accumulate in the Retention Pond are composed primarily of ash/residues originating from the Thermal Treatment Area. Sampling and analysis data associated with the ash generated and disposed by the facility had the potential to exhibit the hazardous waste toxicity characteristic for other metals, including but not limited to, barium, cadmium, and chromium. The Respondent failed to provide records (e.g., sampling and analysis data, LDR certifications, etc.) verifying that the disposed ash met applicable land disposal treatment standards for all underlying hazardous waste constituents.
- D. The Respondent failed to make repairs to address deteriorations of components of the Thermal Treatment Area in accordance with conditions of the Respondent's effective Hazardous Waste TSD Operating Permit, in violation LAC 33:V.309.A and LAC 33:V.1509.A and Hazardous Waste TSD Operating Permit Condition V.D.1.c.ii. Specifically, a review of the Respondent's inspection records revealed that the significant deteriorations in the permitted thermal treatment area were noted for extensive periods of time (in excess of 1 year) without making the necessary repairs.

- E. The Respondent failed to include requisite information in hazardous waste management unit inspection records, as required by LAC 33:V.309.A. Specifically, a review of the facility's inspection records revealed that the vast majority of the daily inspection entries/logs lacked sufficient details of deficiencies noted during the daily inspection. Additionally, the daily inspection entries/logs did not contain information specified in the facility's Inspection Plan included in its Hazardous Waste TSD Operating Permit.
- F. The Respondent failed to determine whether a waste listed in LAC 33:V.4901 or LAC 33:V.4903 met applicable treatment standards specified in LAC 33:V.Chapter 22 prior to land disposal. Hazardous Waste Manifest No. 001879995 FLE, dated June 5, 2014, revealed disposed waste was classified as characteristically toxic for barium (D005) and silver (D011). However, the LDR notification form associated with this waste load did not include silver (D011). Hazardous Waste Manifest No. 001879994 FLE, dated June 9, 2014, revealed disposed waste was classified as characteristically toxic for barium (D005) and chromium (D007). However, the LDR notification form associated with this waste load did not include chromium (D007).
- G. The Respondent operated a surface impoundment managing solid waste without a permit or other authorization, in violation of LAC 33:VII.315.C. Specifically, the Retention Pond described in Findings of Fact Paragraph IV has received non-hazardous solid waste ash/residues originating from the Thermal Treatment Area. In addition to receiving characteristic and/or listed hazardous wastes (as described in Findings of Fact Paragraph IX.A), the Retention Pond has received ash/residues generated as a result of its thermal treatment operations that would be classified as non-hazardous solid wastes.
- H. The Respondent conducted and/or allowed the open burning of solid waste, in violation of LAC 33:V.309.A and LAC 33:VII.315.M. Specifically, on October 11, 2016, inspectors observed the thermal treatment/burning of ancillary wastes (e.g., 55-gallon plastic and metal drums, cardboard boxes, sweeper brushes, and empty munitions boxes) associated with explosive/reactive hazardous waste accepted and treated by the Respondent. The current Waste Analysis Plan included in the Respondent's Hazardous Waste TSD Operating Permit does not identify these wastes are authorized for treatment within the Thermal Treatment Area.
- I. The Respondent failed to prevent residue and debris generated during the thermal treatment process from contaminating the surrounding area and surface waters, in

violation of LAC 33:V.3203 and Hazardous Waste TSD Operating Permit V.D.b.xxi. Specifically, during the Inspection, inspectors observed contaminated equipment (e.g., treatment trays, tray covers, etc.) outside of the concrete containment associated with the Thermal Treatment Area.

X.

On or about October 10-19, 2016, the Department conducted a Multimedia Compliance Evaluation Inspection (the Inspection) to determine the Respondent's degree of compliance with the Hazardous Waste TSD Operating Permit No. LAD981055791-OP-RN-1, LPDES Permit LA0101931, Minor Source Air Permit 1120-00020-04AA and the applicable Hazardous Waste, Solid Waste, Water Quality and Air Quality Regulations. The Department also conducted an extensive file review of facility records over the period for October 5, 2016–October 20, 2016.

While the Department's investigation is not complete, the following violations of LPDES Permit LA0101931 and applicable Water Quality regulations were noted during the course of the inspection and/or file review:

- A. The Inspection conducted by the Department on October 10-19, 2016, and a subsequent file review conducted on October 19, 2016, revealed that the Respondent submitted a permit application that was not representative of the activities being conducted at the site. Specifically, historic sampling and analysis data associated with the Respondent's Tier I Monitoring Program indicated the presence of antimony and copper in waters collected from the Retention Pond. Additionally, sediment samples taken from the Retention Pond by the Respondent in July 2016 indicated the presence of 2,4-dinitrotoluene. In the 2011 and 2016 permit application for the renewal of LPDES Permit No. LA0101931, the Respondent indicated in section II.C.F that the storm water runoff was only storm water that had not been in contact with any raw material, intermediate product, finished product, by-product or waste product. The Respondent also indicated in section III, table III, page 23 of 43 that 2,4-dinitrotoluene was believed to be absent in outfall 001. Additionally, the Respondent indicated in section III.F.1 that there were no toxic materials that are currently used or manufactured as an intermediate, feedstock, final product, or by-product. The failure to submit an accurate permit application is in violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.6507.A.3.

- B. A file review conducted by the Department on October 19, 2016, revealed that the Respondent did cause or allow the discharge of pollutants not authorized by LPDES Permit No. LA0101931. Specifically, a review of the Respondent's previous Tier I sampling and analysis data revealed that antimony has been detected in the Retention Pond water since at least the 1Q-2012 sampling event and has been found present in fifteen (15) subsequent quarterly sampling events. Copper has been detected in the Retention Pond since at least the 1Q-2012 sampling event and has been found present in sixteen (16) subsequent quarterly sampling events. The Respondent has also reported on the Discharge Monitoring Reports (DMRs) that were submitted to the Department that for twenty-two (22) months over the same period, discharges have occurred from the Retention Pond via Outfall 001. The discharge of any pollutants not authorized in LPDES Permit No. LA0101931 is in violation of La. R.S. 30:2076(A)(1)(b) and LAC 33:IX.501.C.
- C. The Respondent inadequately implemented its Storm Water Pollution Prevention Plan (SWP3). Specifically, the following observations were noted during the course of the inspection and file review:
- a. Areas of ash and detonation residue were noted on the ground outside of the thermal treatment pad and are exposed to storm water runoff.
 - b. Equipment that had been used on the burn pad was stored in the open at other areas of the facility and is exposed to storm water runoff.
 - c. Documentation of the required inspections did not adequately evaluate whether measures to reduce storm water pollutant loadings are sufficient and have been properly implemented or whether additional measures are needed.
 - d. The wash area at the maintenance shed is not reflected in the plan.
 - e. The emergency discharge structure from the storm water retention pond is identified on a drawing of the SWP3 but not discussed any further in the plan.

Each of the above-referenced failures to implement an adequate SWP3 constitutes a violation of LPDES Permit No. LA0101931 (Part II, Section B, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A and LAC 33:IX.2701.A.

- D. The Respondent failed to operate all systems of treatment and control including adequate laboratory controls and appropriate quality assurance procedures. The Respondent also failed to conduct monitoring according to approved test procedures and failed to retain the records required by LPDES Permit No. LA0101931. Specifically, a review of the laboratory documents revealed that pH meter calibration logs were not being retained. Also, samples collected on the March 8, 2016, and the May 24, 2016, sampling events were not stored/transported at 4oC and arrived at the lab with a temperature of 18.1oC. The failure to provide adequate laboratory controls and appropriate quality assurance procedures, the failure to conduct monitoring according to approved test procedures and the failure to retain records are in violation of LPDES Permit No. LA0101931 (Part III, Sections A.2, B.3, and C.5.a), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.
- E. The Respondent exceeded the effluent limitation contained in LPDES Permit LA0101931. Specifically, the Respondent reported a sample value of 9.56 standard units (S.U.) for pH on its Discharge Monitoring Report (DMR) for May 2016. The permit limitation contained in LPDES Permit No. LA0101931 for pH is 9.0 (S.U.).
- F. The Respondent had failed to implement an adequate Spill Prevention and Control (SPC) plan. Specifically, the SPC plan indicated that signs would be installed at the loading/unloading areas to prevent vehicular departure prior to complete disconnection of transfer lines and that the facility would provide training to employees regarding the plan. At the time of the inspection there were no warning signs at the loading/unloading areas and training documentation could not be provided. The failure to adequately implement the SPC plan is in violation of La. R.S. 30:2076 (A)(3) and LAC 33:IX.905.A.

XI.

On or about October 10-19, 2016, the Department conducted a Multimedia Compliance Evaluation Inspection (the Inspection) to determine the Respondent's degree of compliance with the Hazardous Waste TSD Operating Permit No. LAD981055791-OP-RN-1, LPDES Permit LA0101931, Minor Source Air Permit 1120-00020-04AA and the applicable Hazardous Waste, Solid Waste, Water Quality and Air Quality Regulations. The Department also conducted an extensive file review of facility records over the period for October 5, 2016–October 20, 2016.

While the Department's investigation is not complete, the following violations of Minor Source Air Permit 1120-00020-04AA and applicable Air Quality regulations were noted during the course of the inspection and/or file review:

- A. The Respondent failed to submit the Annual Report of the total quantities of each treated waste for calendar year 2013 by the March 31, 2014 due date. Specifically, the 2013 report was included as part of the submission of the Annual Report for calendar year 2014 dated March 16, 2015. Failure to submit the report in a timely manner is a violation of Specific Requirement 15 of Air Permit No. 1120-00010-03, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- B. During the course of the Inspection, inspectors noted that the facility failed to comply with all applicable Hazardous Waste regulations as noted in Findings of Fact Paragraph VI. Each failure to comply with all applicable Hazardous Waste Regulations is a violation of Specific Requirement 2.1 of Minor Source Permit Nos 1120-00010-03, 1120-00010-04, 1120-00010-04AA, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. During the course of the Inspection, inspectors reviewed facility burning logs for the last six (6) years. Burn logs from November 16, 2015, October 5, 2016 and October 11, 2016, indicate that all the burning activity of every tray on those days exceeded the 5 minutes limit of burning duration. Each failure to comply with the five (5) minute burn/denotation time limit is a violation of Specific Requirement 2.5 of Minor Source Air Permit No. 1120-00010-04AA, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- D. During the facility inspection and/or visit of all functional areas on October 10, 2016, inspectors witnessed a tray of trash burning on the treatment area. The facility Operations Manager defined the trash as plastic, paper, or packaging materials that could contain energetic residues from the waste streams. On October 11, 2016, the inspector witnessed a treatment burn. The five (5) trays involved in the burn were Tray Nos. 11, 12, 13, 15, and 16. Tray Nos. 11, 12, and 13 contained ammonium perchlorate. Tray Nos. 15 and 16 contained trash; specifically Tray No. 15 contained blue plastic barrels and cardboard and Tray No. 16 contained metal barrels. The unauthorized treatment/open burning of various ancillary wastes associated with explosive/reactive hazardous waste accepted and treated by the Respondent was cited as a violation of the Louisiana Solid Waste Regulations in Findings of Fact Paragraph IX.H.
- E. The facility records pertaining to Specific Requirement 2.3 of Minor Source Air Permit No. 1120-00010-04AA that prohibits burning/treating of waste(s) when the wind speed is measured above ten (10) miles per hour (mph) were reviewed during the Inspection. The facility uses a Kestrel 2000 wind meter for its wind measurements. The owner's manual for

this instrument suggests submitting the unit annually for replacement of the wind speed impeller to assure accuracy of wind measurement. The geography and height of vegetation (pine trees) near the treatment area may preclude accurate wind measurement. The treatment area is below a ridgeline on its south and west sides, while pine trees that are thirty feet in height or higher surround it on all sides. This issue is being addressed by Paragraph X of the ORDER section this enforcement action.

COMPLIANCE ORDER

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

I.

To conduct closure of the unpermitted hazardous waste surface impoundment specified in Findings of Fact Paragraphs IV, IX.A, and IX.G. Closure of this unpermitted surface impoundment shall be conducted in full compliance with applicable Louisiana Solid and/or Hazardous Waste Regulations. The Respondent shall comply with the compliance schedule described in Attachment 1 of this **COMPLIANCE ORDER** regarding the closure of the surface impoundment. In the event the Respondent anticipates that completion of any milestone is not possible by the prescribed date, the Respondent shall submit written notice to the Enforcement Division seven (7) calendar days prior to the deadline. The written notice shall include a narrative describing: 1) the circumstances that may or will delay completion of the milestone; 2) measures implemented by the Respondent to ensure completion of the milestone within the shortest time possible; and 3) a new proposed milestone completion date.

II.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure that hazardous waste determinations and land disposal restriction determinations, when necessary, are performed and documented for all generated wastes, in accordance with LAC 33:V.1103 and LAC 33:V-Chapter 22. The Respondent shall dispose of all generated wastes in accordance with the Solid Waste and Hazardous Waste Regulations.

III.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, the thermal treatment or open burning of wastes not specifically authorized by the Respondent's effective Hazardous Waste TSD Operating Permit.

IV.

To submit for Department approval, within sixty (60) days of receipt of this **COMPLIANCE ORDER**, a Waste Segregation and Explosive/Reactive Residual Management Plan (the Plan). The Plan shall specify the following:

- 1) procedures to identify, segregate, and properly manage, treat, and/or dispose of ancillary solid and/or hazardous wastes (e.g., empty containers, liners, packaging, etc.) associated with hazardous waste streams accepted by the Respondent for thermal treatment;
- 2) procedures to divert ancillary waste streams that have been previously thermally treated at the Respondent's facility for disposal at authorized off-site solid and/or hazardous waste treatment/disposal facilities;
- 3) procedures to safely inspect and decontaminate ancillary wastes that may be contaminated with explosive/reactive hazardous waste residues in a manner that will allow for those ancillary wastes to be managed and ultimately treated/disposed utilizing technologies other than open burning; and
- 4) narrative descriptions of and the approximate annual volumes [last three (3) calendar years] of these ancillary waste streams that have been thermally treated on-site or transported for off-site treatment/disposal; and
- 5) a narrative describing ancillary waste streams and the approximately annual volume of those ancillary wastes that may have been historically thermally treated on-site that the Plan will divert to other amenable treatment technologies.

V.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the requirements contained in the Water Quality Regulations and LPDES Permit No. LA0101931 including, but not limited to, implementing an adequate SWP3 and SPC plan by specifically addressing the issues noted in Findings of Fact Paragraph X.C and F and developing adequate laboratory controls and quality assurance procedures.

VI.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, any and all discharges from Outfall 001 until such time that a renewed LPDES Permit No. LA0101931 is issued or until such discharges are otherwise approved by the Department in writing.

VII.

To resubmit, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, an updated LPDES Permit Renewal Application that accurately reflects the activities that occur at the Respondent's and all discharges to occur from the facility. Two copies (the original and one copy) of the completed application should be submitted to:

The Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Water Permits Division

A copy of the cover letter for the properly completed permit application must also be sent to the Enforcement Division.

VIII.

To submit to the Enforcement Division, quarterly summary reports (signed by a responsible corporate official) listing all instances of noncompliance with the requirements of Minor Source Air Permit No. 1120-00010-04AA and/or the Air Quality Regulations. The first summary report shall be due for the calendar quarter ending December 31, 2016. The summary report shall be postmarked within thirty (30) days after the completion of each calendar quarter. If no instances of noncompliance occurred during the calendar quarter, a statement shall be submitted, certifying that no instances of noncompliance occurred.

IX.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a summary report identifying all instances during the period of August 7, 2014-October 21, 2016 for which the five (5) minute burn /detonation time limit specified in the Respondent's Minor Source Air Permits (effective during that period) was exceeded. The summary report shall include, but not necessarily be limited to, the following: 1) date, time, and duration of the burn event; 2) the associated burn tray number; and 3) a description of the treated waste.

X.

To install and operate a meteorological station that monitors wind speed and direction and use the data from that meteorological station in order to maintain compliance with the Specific Requirement 2.3 of Air Permit No. 1120-00010-04AA within thirty (30) days after the receipt of this order. The

Respondent shall send a letter to Enforcement Division, LDEQ within seven (7) days after the installation.

XI.

To immediately implement, upon receipt of this **COMPLIANCE ORDER**, procedures to ensure that all requisite information is documented in the Hazardous Waste Management Unit inspection records, as required by LAC 33:V.309.A.

XII.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Louisiana Hazardous Waste, Solid Waste, Water Quality, and Air Quality Regulations, as well as all Department-issued environmental permits.

XIII.

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: **Craig Easley**
Re: **Enforcement Tracking No. MM-CN-16-01015**
Agency Interest No. 32096

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-16-01015
Agency Interest No. 32096

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 Craig Easley at (225) 219-3801 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.

The NOTICE OF POTENTIAL PENALTY will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or via email at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

VI.

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt. Baton Rouge, Louisiana, this 27th day of October, 2016.



Lourdes Iturralde
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: Craig Easley

Attachment 1

Retention Pond Closure - Compliance Schedule

Milestone	Completion Date
The Respondent shall submit a Closure Plan that addresses the closure of the Retention Pond. The Closure Plan shall also address the investigation of soil and groundwater underlying the Retention Pond.	Within thirty (30) calendar days of the Respondent's receipt of MM-CN-16-01015
The Respondent shall implement the Department-approved Retention Pond Closure Plan.	Within fifteen (15) calendar days of the date of the Department's approval of the Retention Pond Closure Plan.
The Respondent shall complete implementation of the Department-approved Retention Pond Closure Plan.	Within 240 calendar days of the Respondent's receipt of MM-CN-16-01015
The Respondent shall submit a Retention Pond Closure Report.	Within forty-five (45) days of the completion of the Retention Pond Closure Plan

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 7, 2017

CERTIFIED MAIL (7003 2260 0000 5824 4999)
RETURN RECEIPT REQUESTED

CLEAN HARBORS COLFAX, LLC
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, Louisiana 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-17-00062
AGENCY INTEREST NO. 32096**

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 **CLEAN HARBORS COLFAX, LLC (RESPONDENT)** for the violation(s) described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) 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 Antoinette Cobb at (225) 219-3072 or via email at antoinette.cobb@la.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage
Administrator
Enforcement Division



CJC/AFC/afc
Alt ID No. 1120-00010
Attachment

c: Clean Harbor Colfax, LLC
c/o Mr. Jerry McPheron, General Manager
3763 Louisiana Highway 471
Colfax, Louisiana 71417

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

CLEAN HARBORS COLFAX, LLC
GRANT PARISH
ALT ID NO. 1120-00010

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

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*
* ENFORCEMENT TRACKING NO.
*
* AE-CN-17-00062
*
* AGENCY INTEREST NO.
*
* 32096
*

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **CLEAN HARBORS COLFAX, LLC (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 the Colfax facility (facility), a hazardous waste treatment facility, located at 3763 Louisiana Highway 471 in Colfax, Grant Parish, Louisiana. The facility, a RCRA Subpart X facility, is a flexible open burning detonation operation that thermally treats energetic materials (RCRA reactive wastes). Open burning operations are accomplished using twenty (20) burn pans separated by a specific safety distance. Open burning is conducted for a maximum of ten (10) out of twenty (20) pans at a time. The facility operates or has operated under the authority of the following Minor Source Air Permits:

UNIT	PERMIT NO.	ISSUE DATE
Facility	1120-00010-04AA	10/13/2014
	1120-00010-04	08/07/2014

UNIT	PERMIT NO.	ISSUE DATE
	1120-00010-03	02/08/2010

On October 27, 2016, the Department issued Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. MM-CN-16-01015, to the Respondent. The CONOPP was the result of violations noted during a Multimedia Compliance Evaluation Inspection (CEI) conducted on October 10-19, 2016, and files reviews conducted to determine the Respondent's degree of compliance with the Air Quality, Hazardous Waste Quality, Solid Waste Quality, and Water Quality Regulations and applicable permits. The Respondent received the CONOPP on October 31, 2016. The Respondent submitted a request for an adjudicatory hearing dated November 23, 2016. The Department and Respondent agreed to enter into dispute resolution discussions on December 20, 2016.

II.

On or about January 9, 2017, and January 17, 2017, an unannounced air quality inspection of the facility was conducted in response to a citizen's complaint and to determine the degree of compliance with the Act, the Air Quality Regulations, and all applicable permits. The inspection was conducted as a result of Department Incident No. T174983. A subsequent file review was conducted on January 23, 2017. While the Department's investigation is not complete, the following violations were noted during the course of the inspection and/or file review:

- A. The inspector reviewed the facility's treatment logs for January 9, 2017, and noted burn times that exceeded the five (5) minute burn/denotation permit limit as noted in the table below:

	TRAY NUMBER (time)	WASTE CLASS & DIVISION	WASTE NAME	GROSS WEIGHT (in lbs.)	NET EXPLOSIVE WEIGHT (NEW) (in lbs.)	PERMITTED BURN TIME	ACTUAL BURN TIME
I.	13 (2:29 PM)	1.112	Waste fireworks explosives	18.50	2.50	5 minutes	50 minutes
II.	14 (2:29 PM)	1.112	Waste fireworks explosives	18.50	2.50	5 minutes	50 minutes
III.	15 (2:29 PM)	1.112	Waste fireworks explosives	18.50	2.50	5 minutes	50 minutes
IV.	16 (2:29 PM)	1.112	Waste fireworks explosives	18.50	2.50	5 minutes	50 minutes
V.	17 (2:29 PM)	1.112	Waste fireworks explosives	15.50	2.00	5 minutes	50 minutes
VI.	18 (2:29 PM)	1.112	Waste fireworks explosives	15.50	2.00	5 minutes	50 minutes

	TRAY NUMBER (time)	WASTE CLASS & DIVISION	WASTE NAME	GROSS WEIGHT (in lbs.)	NET EXPLOSIVE WEIGHT (NEW) (in lbs.)	PERMITTED BURN TIME	ACTUAL BURN TIME
VII.	19 (2:29 PM)	1.112	Waste fireworks explosives	31.00	4.00	5 minutes	50 minutes
VIII.	20 (2:29 PM)	1.112	Waste fireworks explosives	31.00	4.00	5 minutes	50 minutes

Each failure to comply with the five (5) minute burn/denotation permit limit is a violation of Specific Requirement 2.5 of Minor Source Permit No. 1120-00010-04AA, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. The Respondent failed to include all required components in the Treated Waste Annual Reports. Specifically, the total quantities of each treated waste for the preceding calendar year were not included in the annual reports. Insufficient reports were submitted for the 2012, 2013, 2014, and 2015 calendar years. Each failure to submit a complete report is a violation of Specific Requirement 15 of Minor Source Permit No. 1120-00010-03 for 2012 and 2013, Specific Requirement 12 of Minor Source Permit No. 1120-00010-04AA for 2014 and 2015, 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 take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality Regulations and all permit requirements as listed in Minor Source Permit No. 1120-00010-04AA, including but not limited to Specific Requirement 2.5 and Specific Requirement 12.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a summary report identifying all instances over the period of October 22, 2016 through January 31, 2017 for which the five (5) minute burn /detonation time limit was exceeded. The summary report shall include, but not necessarily be limited to, the following: 1) date, time, and duration of the burn event; 2) the associated burn tray number; and 3) a description of the treated waste.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, revised copies of the annual reports as referenced in Paragraph II.B of the **FINDINGS OF FACT** portion of the **COMPLIANCE ORDER**.

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(s) 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: Antoinette Cobb
Re: Enforcement Tracking No. AE-CN-17-00062
Agency Interest No. 32096

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. AE-CN-17-00062
Agency Interest No. 32096

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 Antoinette Cobb at (225) 219-3072 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.

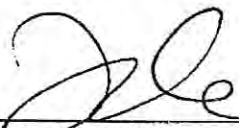
IV.

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 7th day of February, 2017.



Lourdes Iturralde
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: Antoinette Cobb

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE



Enforcement Tracking No.	AE-CN-17-00062	Contact Name	Antoinette Cobb
Agency Interest (AI) No.	32096	Contact Phone No.	(225) 219-3072
Alternate ID No.	1120-00010		
Respondent:	Clean Harbors Colfax, LLC	Facility Name:	Colfax Facility
	c/o C T Corporation System	Physical Location:	3763 Louisiana Highway 471
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Colfax, Louisiana 71417
Baton Rouge, LA 70816	Parish:	Grant	

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IV of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) II-III of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? 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:I.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY («Tracking_»), 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 («Tracking_»), 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"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • 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.
	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY («Tracking_») 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: Antoinette Cobb

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE



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Agency Interest (AI) No.	32096	Contact Phone No.	(225) 219-3072
Alternate ID No.	1120-00010		
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	c/o C T Corporation System	Physical Location:	3763 Louisiana Highway 471
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Colfax, Louisiana 71417
	Baton Rouge, LA 70816	Parish:	Grant

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

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