

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MCMANUS CONSTRUCTION, LLC

AI # 7744

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

* Settlement Tracking No.
* SA-MM-22-0045
*
* Enforcement Tracking Nos.
* SE-CN-17-00767
* MM-CN-20-00948
* SE-CN-21-00482
*
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*
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SETTLEMENT

The following Settlement is hereby agreed to between McManus Construction, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates a Type III construction and demolition landfill located in Lake Charles, Calcasieu Parish, Louisiana (“the Facility”).

II

On January 3, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. SE-CN-17-00767 (Exhibit 1).

On February 4, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-20-00948 (Exhibit 2).

On July 20, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. SE-CN-21-00482 (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 TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Two Thousand Seven Hundred Twenty-Two and 97/100 Dollars (\$2,722.97) 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), the Consolidated Compliance Orders & 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.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this

agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department

of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit 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.

MCMANUS CONSTRUCTION, LLC

BY: Boyan McManus
(Signature)

Boyan McManus
(Printed)

TITLE: member, operations manager

THUS DONE AND SIGNED in duplicate original before me this 5th day of January, 20 23, at Lake Charles, LA.

Heather Lafleur
NOTARY PUBLIC (ID # 140510)



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Roger W. Gingles, Secretary

BY: Celena J. Cage
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 31st day of May, 20 23, at Baton Rouge, Louisiana.

Jay Glorioso
NOTARY PUBLIC (ID # 66881)

Jay L. Glorioso
(stamped or printed)

Approved: Celena J. Cage
Celena J. Cage, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
January 3, 2018

CERTIFIED MAIL (7012 2210 0001 1915 5564)
RETURN RECEIPT REQUESTED

MCMANUS CONSTRUCTION, LLC
c/o Sheldon J. McManus
Agent for Service of Process
4126 Highway 3059
Lake Charles, LA 70615

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. SE-CN-17-00767
AGENCY INTEREST NO. 7744**

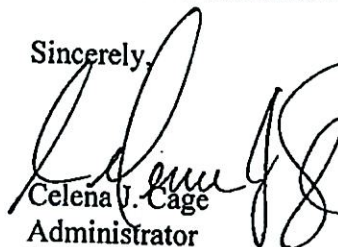
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MCMANUS CONSTRUCTION, LLC (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 Adrienne Landry at (225) 219-3805.

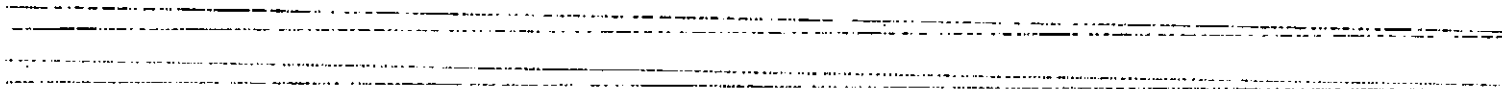
Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/ARL/arl
Alt ID No. D-019-2168/P-0371-R1
Attachment



c: MCMANUS CONSTRUCTION, LLC
P.O. Box 17110
Lake Charles, LA 70616



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

IN THE MATTER OF

**MCMANUS CONSTRUCTION, LLC
CALCASIEU PARISH
ALT ID NO. D-019-2168/P-0371-R1**

*
*
* **ENFORCEMENT TRACKING NO.**
*
* **SE-CN-17-00767**
*

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

*
* **AGENCY INTEREST NO.**
*
* **7744**
*

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MCMANUS CONSTRUCTION, 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 a permitted Type III construction/demolition debris and woodwaste landfill known to the Department as McManus C & D – Old Town Road Landfill located at 4128 Highway 3059, Lake Charles, Calcasieu Parish, Louisiana. The facility operates under solid waste identification number D-019-2168. The Department issued permit P-0371-R1 to the facility on March 18, 2015; the permit expires on March 18, 2025.

II.

On or about, November 17, 2015 and April 27, 2017, the Department conducted inspections at the above referenced facility to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent allowed open burning to be practiced without first obtaining authorization from the administrative authority and any other applicable federal, state, and local authorities, as required in the Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-65 and R-122 of Standard Permit P-0371-R1, LAC 33:VII.315.M, LAC 33:VII.725.C.1.b, and LAC 33:VII.721.C.1.b. Specifically, at the time of the November 17, 2015 and April 27, 2017 inspections, the Respondent was conducting open burning. The facility has a permitted Air Curtain Destructor; however, it was not in use at the time of the inspections.
- ~~B. The Respondent failed to have a closed container for unacceptable wastes onsite and failed to maintain a log of dates and volumes of rejected or unacceptable waste removed from the facility, as required in the Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-74 of Standard Permit P-0371-R1, and LAC 33:VII.721.C.4. Specifically, the Respondent is not maintaining a log of dates and volumes of unacceptable waste that was removed by the facility nor did the facility have a closed container for unacceptable wastes on-site. This violation was noted during the November 17, 2015 inspection. On or about May 18, 2017, documentation was provided to the Department which shows a closed container for the facility's unacceptable waste. The facility does not keep a log of dates and volumes of unacceptable waste removed from the facility. However, the facility does maintain invoices which demonstrate the waste is removed weekly but the invoices do not include the volume of waste removed.~~
- C. The Respondent failed to maintain at the facility all records necessary for the effective management of the facility and for preparing the required reports, as required in the Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-58 of Standard Permit P-0371-R1, and LAC 33:VII.721.B.2.a. Specifically, the Respondent failed to keep a log of unacceptable waste that was rejected by the facility. This violation was noted during the November 17, 2015 inspection. Documentation provided to the

Department on or about May 18, 2017 shows that the Respondent is now keeping a log of rejected waste; therefore, this violation has been addressed.

D. The Respondent conducted the burning of unacceptable solid waste, as prohibited by Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-134 of Standard Permit P-0371-R1, and LAC 33:VII.725.C.3.f.v. Specifically, at the time of the April 27, 2017 inspection, the Department observed various metals located in the facility's burn pit while open burning was occurring.

E. The Respondent utilized multiple working faces, as prohibited in the Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation

~~of Specific Requirement R-55 of Standard Permit P-0371-R1, and LAC 33:VII.721.A.2.c. Specifically, at the time of April 27, 2017 inspection, the~~
Department observed two (2) active working faces.

F. The Respondent failed to prohibit or prevent the disposal of unacceptable waste and residential waste, as prohibited by Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-68 and R-69 of Standard Permit P-0371-R1, and LAC 33:VII.721.C.1.e & f. Specifically, the Department observed unacceptable solid waste on the facility's two (2) active working faces. The solid waste observed by the Department included but was not limited to: waste tires, plastic buckets, carpet, cardboard, plastic sheeting, pillows, and furniture cushions. Additionally, the Department observed a load of residential waste being actively disposed of on the southern working face. These violations were noted during the April 27, 2017 inspection.

G. The Respondent failed to ensure that no solid waste be deposited in standing water and that standing water in contact with waste shall be removed immediately, as required by Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-70 of Standard Permit P-0371-R1, and LAC 33:VII.721.C.1.g. Specifically, during the April 27, 2017 inspection, the Department observed solid waste deposited directly adjacent to and in standing water near the northern working face.

- H. The Respondent failed to visually inspect each load of waste for prohibited waste prior to and during unloading, and to not accept any prohibited waste, as required in the Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of Specific Requirement R-72 of Standard Permit P-0371-R1, and LAC 33:VII.721.C.2. Specifically, during the April 27, 2017 inspection, the Department observed an incoming load of solid waste, containing mostly residential waste, which was not visually inspected by the facility prior to being disposed of on the southern working face.
- I. The Respondent failed to prevent scavenging, as required in the Comprehensive Operational Plan, Attachment 35, of the Solid Waste Permit Application, in violation of ~~Specific Requirement R-67 of Standard Permit P-0371-R1, and LAC 33:VII.721.C.1.d.~~ Specifically, during the April 27, 2017 inspection, the Department observed the facility's bulldozer operator scavenging a backpack from a recently deposited load of residential waste.

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 Louisiana Solid Waste Regulations and Standard Permit P-0371-R1.

II.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, all open burning unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

III.

To maintain, immediately upon receipt of this **COMPLIANCE ORDER**, a log of dates and volumes of unacceptable waste removed from the facility, in accordance with LAC 33:V.721.C.4 and Specific Requirement R-74 of Standard Permit P-0371-R1.

IV.

To ensure, immediately upon receipt of this **COMPLIANCE ORDER**, that only one (1) working face be utilized in accordance with LAC 33:VII.721.A.2.c and Specific Requirement R-55 of Standard Permit P-0371-R1.

V.

To prohibit and prevent, immediately upon receipt of this **COMPLIANCE ORDER**, the disposal of unacceptable waste, liquid waste, infectious waste, residential waste, industrial waste, commercial waste, RACM, and putrescible waste in accordance with LAC 33:VII.721.C.1.e and LAC 33:VII.721.C.1.f and Specific Requirement R-68 and R-69 of Standard Permit P-0371-R1.

VI.

~~To cease depositing, immediately upon receipt of this **COMPLIANCE ORDER**, solid waste in standing water.~~

VII.

To visually inspect, immediately upon receipt of this **COMPLIANCE ORDER**, each load of waste for prohibited waste prior to and during unloading, and to not accept any prohibited waste.

VIII.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure scavenging is prevented.

IX.

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. 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: Adrienne Landry
Re: Enforcement Tracking No. SE-CN-17-00767
Agency Interest No. 7744

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. SE-CN-17-00767
Agency Interest No. 7744

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars ~~(\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with~~ this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

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

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Adrienne Landry at (225) 219-3805 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.~~

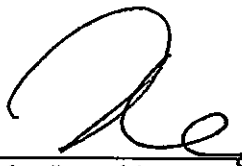
IV.

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 3rd day of January, 2018, 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: Adrienne Landry



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-17-00767	Contact Name	Adrienne Landry
Agency Interest (AI) No.	7744	Contact Phone No.	225-219-3805
Alternate ID No.	D-019-2168/P-0371-R1		
Respondent:	McManus Construction, LLC	Facility Name:	McManus C&D – Old Town Road Landfill
	c/o Sheldon J. McManus	Physical Location:	4128 Highway 3059
	Agent for Service of Process		
	4126 Highway 3059	City, State, Zip:	Lake Charles, LA 70615
	Lake Charles, LA 70615	Parish:	Calcasieu

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph XI 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)

- 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.
- In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY SE-CN-17-00767, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
- In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY SE-CN-17-00767, 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.
 - 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 SE-CN-17-00767 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: Adrienne Landry		



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

FEB 04 2021

CERTIFIED MAIL (7019 1640 0001 2617 0515)
RETURN RECEIPT REQUESTED

MCMANUS CONSTRUCTION, LLC
c/o Sheldon J. McManus
Agent for Service of Process
4126 Highway 3059
Lake Charles, LA 70615

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-20-00948
AGENCY INTEREST NO. 7744**

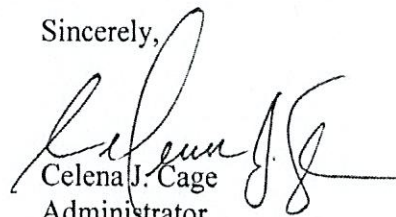
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MCMANUS CONSTRUCTION, LLC (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 Brendan Marsh at (225) 219-3372 or brendan.marsh@la.gov.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/BMM/bmm
Alt ID No. P-0371-R1-M1
Attachment



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

IN THE MATTER OF	*	
	*	
MCMANUS CONSTRUCTION, LLC	*	ENFORCEMENT TRACKING NO.
CALCASIEU PARISH	*	
ALT ID NO. P-0371-R1-M1	*	MM-CN-20-00948
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	7744
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 **MCMANUS CONSTRUCTION, 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 McManus Old Town Road Landfill, a Type III construction and demolition (C&D) landfill (the facility), located at 4128 Highway 3059 in Lake Charles, Calcasieu Parish, Louisiana. The facility operates under Solid Waste Standard Permit P-0371-R1-M1.

II.

On or about August 27, 2020, Hurricane Laura made landfall as a Category 4 storm causing adverse impact and widespread damage to the State of Louisiana. A Declaration of Emergency and Administrative Order (DEAO) was issued on August 25, 2020. The Fifth (5th) Amended DEAO was issued on November 28, 2020, and expired on December 28, 2020. The Sixth (6th) Amended DEAO was issued on December 28, 2020, and expired on January 27, 2021. The Seventh (7th) Amended DEAO was issued on January 27, 2021, with an expiration date of February 26, 2021. In addition to C&D debris and

woodwaste, the DEAO allows Type III landfills located in Calcasieu Parish and Cameron Parish to dispose of furniture, carpet, and mattresses generated as a result of Hurricane Laura.

III.

On or about October 9, 2020, Hurricane Delta made landfall as a Category 2 storm causing impact and widespread damage to the State of Louisiana. A DEAO was issued on October 8, 2020. The Third (3rd) Amended DEAO was issued on November 28, 2020, was extended twice, and will expire on February 26, 2021. In addition to C&D debris and woodwaste, the DEAO allows Type III landfills located in Calcasieu Parish and Cameron Parish to dispose of furniture, carpet, and mattresses generated as a result of Hurricane Delta.

IV.

On or about December 14, 2020, the Department conducted an inspection to determine compliance with the Act and the Solid Waste Regulations. A Field Notice of Deficiency (FNOD) was issued on or about December 14, 2020. A follow-up inspection conducted on or about December 21, 2020, revealed that the Respondent failed to adequately address the areas of concern. As of January 4, 2021, the Respondent has not provided a response to the FNOD.

V.

On or about December 14, 2020, and December 21, 2020, the Department conducted inspections at the above referenced facility to determine the degree of compliance with the Act and the Solid Waste Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to ensure adequate cover material is applied to reduce fire hazards and odors, in accordance with Attachment 35 of the approved permit application, in violation of Specific Requirement R-53 of the Standard Permit P-0371-R1-M1, LAC 33:VII.721.A.2.a.iii, LAC 33:VII.721.A.2.a.v, and LAC 33:VII.901.A. Specifically, during the December 14, 2020 inspection, a sulfurous odor was noted at Cell 1 and Cell 2. During the December 21, 2020 inspection, approximately eight (8) hot spots located at the south end of Cell 3 and north side of Cell 1 with temperatures ranging from 144.5°F to 162.1°F were observed. Additionally, a sulfurous odor was noted between Cell 1 and Cell 3.
- B. The Respondent failed to submit notification to the Department prior to operating an additional working face, in accordance with Section 2.b.ii.(1) of the Hurricane Laura

DEAO in violation of La. R.S. 30:2033.D.1, LAC 33:I.6901.A.2, and LAC 33:I.6925.A. Specifically, the Respondent was operating three (3) working faces but was only approved to operate two (2) working faces at the time of the December 14, 2020 inspection. A request to operate three (3) working faces was received by the Department on or about November 19, 2020, and was approved on or about December 15, 2020.

- C. The Respondent failed to ensure unacceptable waste is stored in a closed container and removed from the landfill at least every seven (7) days, in accordance with Attachment 35 of the Solid Waste Permit Application, in violation of Specific Requirement R-74 of the Standard Permit P-0371-R1-M1, LAC 33:VII.721.C.4 and LAC 33:VII.901.A. Specifically, unacceptable waste, including but not limited to household waste, boxes, and life jackets, was observed compacted in the working face of Cell 1 during the December 14, 2020 inspection. Unacceptable waste, including but not limited to white goods, such as stoves and refrigerators, was observed in the working face of Cell 3 during the December 21, 2020 inspection.

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 Solid Waste Standard Permit P-0371-R1-M1.

II.

To immediately address, upon receipt of this **COMPLIANCE ORDER**, any smoking and/or smoldering areas of the landfill by locating, identifying, extinguishing, and eliminating any source(s) or potential source(s) of combustion.

III.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure cover is applied in a manner to reduce fire-hazard potential and odors, including but not limited to adequately compacting the waste to minimize the inward movement of atmospheric oxygen, in accordance with Solid Waste Standard Permit P-0371-R1-M1, LAC 33:VII.721.A.2.a.iii, and LAC 33:VII.721.A.2.a.v.

IV.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, storing unacceptable wastes in a closed container and ensuring the unacceptable wastes are removed from the facility for disposal at an appropriate facility at least every seven (7) days, in accordance with Solid Waste Standard Permit P-0371-R1-M1 and LAC 33:VII.721.C.4.

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
Attn: Brendan Marsh
Re: Enforcement Tracking No. MM-CN-20-00948
Agency Interest No. 7744

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-20-00948
Agency Interest No. 7744

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. 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 Brendan Marsh at (225) 219-3372 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.

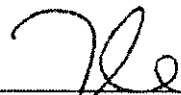
The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement 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 4th day of February, 2021.



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: Brendan Marsh

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.	MM-CN-20-00948	Contact Name	Brendan Marsh
Agency Interest (AI) No.	7744	Contact Phone No.	(225) 219-3372
Alternate ID No.	P-0371-R1-M1		
Respondent:	McManus Construction, LLC	Facility Name:	McManus Old Town Road Landfill
	c/o Sheldon J. McManus	Physical Location:	4128 Highway 3059
	Agent for Service of Process		
	4126 Highway 3059	City, State, Zip:	Lake Charles, LA 70615
	Lake Charles, LA 70615	Parish:	Calcasieu

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph V 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 MM-CN-20-00948, 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 MM-CN-20-00948, 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.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY MM-CN-20-00948 and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT		
<p><i>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.</i></p>		
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: Brendan Marsh		



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

JUL 20 2021

CERTIFIED MAIL (7019 2970 0000 6037 4258)
RETURN RECEIPT REQUESTED

MCMANUS CONSTRUCTION, LLC
c/o Sheldon J. McManus
Agent for Service of Process
4126 Highway 3059
Lake Charles, LA 70615

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. SE-CN-21-00482
AGENCY INTEREST NO. 7744**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MCMANUS CONSTRUCTION, LLC (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 Jennifer Boudreaux at (225) 219-3636 or Jennifer.Boudreaux@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/JMB/jmb
Alt ID No. P-0371-R1-M1
Attachment



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

IN THE MATTER OF	*	
	*	
MCMANUS CONSTRUCTION, LLC	*	ENFORCEMENT TRACKING NO.
CALCASIEU PARISH	*	
ALT ID NO. P-0371-R1-M1	*	SE-CN-21-00482
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	7744
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 **MCMANUS CONSTRUCTION, 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 McManus Old Town Road Landfill, a Type III construction and demolition (C&D) landfill (the facility), located at 4128 Highway 3059 in Lake Charles, Calcasieu Parish, Louisiana. The facility operates under Solid Waste Standard Permit P-0371-R1-M1.

II.

On or about August 27, 2020, Hurricane Laura made landfall as a Category 4 storm causing adverse impact and widespread damage to the State of Louisiana. A Declaration of Emergency and Administrative Order (DEAO) was issued on August 25, 2020. The Sixth (6th) Amended DEAO was issued on December 28, 2020, and expired on January 27, 2021. The Seventh (7th) Amended DEAO was issued on January 27, 2021, and expired on February 26, 2021. The Eighth (8th) Amended DEAO was issued on February 26, 2021, and expired on March 29, 2021. The Ninth (9th) Amended DEAO was issued

on March 29, 2021, and expired on April 28, 2021. The Tenth (10th) Amended DEAO was issued on April 28, 2021, and expired on May 28, 2021. The Eleventh (11th) Amended DEAO was issued on May 28, 2021, and expired on June 28, 2021. The Twelfth (12th) Amended DEAO was issued on June 28, 2021, with an expiration date of July 28, 2021. In addition to construction and demolition (C&D) debris and woodwaste, the DEAO allows Type III landfills located in Calcasieu Parish and Cameron Parish to dispose of furniture, carpet, and mattresses generated as a result of Hurricane Laura.

III.

On or about October 9, 2020, Hurricane Delta made landfall as a Category 2 storm causing impact and widespread damage to the State of Louisiana. A DEAO was issued on October 8, 2020. The Third (3rd) Amended DEAO was issued on November 28, 2020, was extended seven (7) times, and will expire on July 28, 2021.

IV.

On or about February 4, 2021, the Department issued **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-20-00948** to the Respondent. The Respondent received **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-20-00948** on or about February 23, 2021, via certified mail. The Respondent submitted a response to **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-20-00948** dated March 23, 2021.

V.

On or about January 4, 2021, February 8, 2021, March 22, 2021, April 12, 2021, and April 19, 2021, the Department conducted inspections at the above referenced facility to determine the degree of compliance with the Act and the Solid Waste Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to ensure adequate cover material is applied to reduce fire hazards and minimize blowing paper and litter, in accordance with Attachment 35 of the approved permit application, in violation of **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-20-00948**, Specific Requirement R-53 of the Standard Permit P-0371-R1-M1, LAC 33:VII.721.A.2.a.iii, LAC 33:VII.721.A.2.a.iv, and LAC 33:VII.901.A. Specifically, approximately four (4) hot spots located at the north slope of Cell 1 with temperatures ranging from 146.3°F to 161.4°F were observed during the inspection conducted on or about January 4, 2021. Additionally, during inspections conducted on or about March 22, 2021, April 12,

2021, and April 19, 2021, litter was observed on the ground to the west of the active working face along the river bank.

- B. The Respondent failed to prohibit or prevent the disposal of residential waste and commercial waste, in violation of Specific Requirement R-69 of the Standard Permit P-0371-R1-M1, LAC 33:VII.721.C.1.f, and LAC 33:VII.901.A. Specifically, inspections performed on or about March 22, 2021, April 12, 2021, and April 19, 2021, revealed unacceptable wastes, including but not limited to a hot water tank, an air tank, buckets, electric poles, a bucket of fence stain, paint buckets, a wheelbarrow, bicycles, a stove top, clothing, household garbage, and an oil container, were observed disposed of in the working face. At the time of the inspections, the Respondent was accepting expanded C&D debris.
- C. The Respondent failed to ensure that no solid waste is deposited in standing water and that standing water in contact with waste is removed immediately, in violation of Specific Requirement R-70 of the Standard Permit P-0371-R1-M1, LAC 33:VII.721.C.1.g, and LAC 33:VII.901.A. Specifically, an inspection performed on or about February 8, 2021, revealed C&D debris was deposited in standing water. During subsequent inspections performed on or about March 22, 2021, April 12, 2021, and April 19, 2021, no regulated solid waste was observed in standing water.

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 Solid Waste Standard Permit P-0371-R1-M1.

II.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure cover material is sufficient to reduce fire-hazard potential, including but not limited to adequately compacting the waste to minimize the inward movement of atmospheric oxygen, and to minimize blowing paper and litter in accordance with Solid Waste Standard Permit P-0371-R1-M1 and LAC 33:VII.721.A.2.a.iii and iv.

III.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to prohibit and prevent the disposal of residential and commercial waste, in accordance with Solid Waste Standard Permit P-0371-R1-M1 and LAC 33:VII.721.C.1.f. In the event unacceptable waste is discovered, the wastes shall be stored in a closed container and removed from the facility for disposal at an appropriate facility within seven (7) days, in accordance with Solid Waste Standard Permit P-0371-R1-M1 and LAC 33:VII.721.C.4.

IV.

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

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Jennifer Boudreaux
Re: Enforcement Tracking No. SE-CN-21-00482
Agency Interest No. 7744

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. SE-CN-21-00482
Agency Interest No. 7744

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. 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 Jennifer Boudreaux 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. 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 20th day of July, 2021.



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: Jennifer Boudreaux



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.	SE-CN-21-00482	Contact Name	Jennifer Boudreaux
Agency Interest (AI) No.	7744	Contact Phone No.	(225) 219-3636
Alternate ID No.	P-0371-R1-M1		
Respondent:	McManus Construction, LLC	Facility Name:	McManus Construction Inc – Old Town Road Landfill
	c/o Sheldon J. McManus Agent for Service of Process	Physical Location:	4128 Highway 3059
	4126 Highway 3059	City, State, Zip:	Lake Charles, LA 70615
	Lake Charles, LA 70615	Parish:	Calcasieu

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 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (SE-CN-21-00482), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (SE-CN-21-00482), 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.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (SE-CN-21-00482), 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.

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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: Jennifer Boudreaux			