

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ARMANT ENVIRONMENTAL
SERVICES, LLC

AI # 44027

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

* Settlement Tracking No.
* SA-MM-11-0023
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* Enforcement Tracking No.
* MM-CN-09-0006
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* Docket No. 2010-5639-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Armant Environmental Services, 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 centralized wastewater treatment and used oil processing facility located in Vacherie, St. James Parish, Louisiana (“the Facility”).

II

On March 24, 2008, the Department issued to Respondent a Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-09-0006, which was based upon the following findings of fact:

The Respondent owns and/or operates a centralized wastewater treatment and used oil processing facility known to the Department as Armant Environmental Services. The facility is

located at 2141 Toth Road, Vacherie, St. James Parish, Louisiana. The facility operates under Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0122726 and has notified the Department as a used oil processor operating under the EPA facility identification number LAD980869036.

On or about February 5, 2007, the Respondent submitted an LPDES Industrial Wastewater Discharge Permit Application (form SCC-2) to the Department, which was determined to be administratively complete on or about February 19, 2007. LPDES permit LA0122726 was issued to the Respondent with an effective date of September 1, 2007, and expiration date of August 31, 2012. LPDES permit LA0122726 authorizes the Respondent to discharge treated barge waste and wash waters, bilge and ballast waters, internal vacuum tank wash waters, used crude inland oil spill waters, and used oil and diesel fuel tank wash waters via Outfall 001, thence into the Mississippi River, waters of the state. The Respondent is also authorized to discharge treated wash waters from oilfield equipment and vessels, industrial oil wastewater, slop wastewater, grey waters, stormwater, and washdown waters from many sources including rail cars via Outfall 001. Additionally, LPDES permit authorizes the Respondent to discharge treated sanitary wastewater via Outfall 002, thence into an unnamed ditch, thence into Bayou Becnel, thence into Lac Des Allemands, all waters of the state.

On or about February 8, 2007, the Respondent submitted a correspondence to the Enforcement Division requesting interim authorization from the Department to operate and/or discharge into waters of the state from this facility until a final LPDES permit is issued by the Department.

On or about April 4, 2007, Administrative Order WE-AO-07-0092 was issued to the Respondent granting interim authorization to discharge wastewater via Outfall 001 and Outfall

002. Administrative Order WE-AO-07-0092 authorized the Respondent to discharge wastewater through Outfall 001 and Outfall 002, under certain effluent limitations and monitoring requirements, until a final LPDES permit was issued by the Department or the respondent was otherwise notified by the Department in writing.

On or about September 17, 2007, a representative of American Commercial Barge Line (ACBL) notified the Louisiana State Police Hazard Material Unit of oil sheen at mile marker 151 along the west bank of the Mississippi River in St. James Parish. According to the notification report dated September 17, 2007, the oil sheen was approximately 1000 ft. X 35 ft.

On or about September 18, 2007, the Respondent submitted oral notification to the Department's Single Point of Contact (SPOC) Hotline of an unauthorized discharge into the Mississippi River. According to the Respondent's notification report, the incident occurred on or about September 17, 2007, and less than 100 gallons of oily wastewater discharged into the Mississippi River.

The Respondent submitted correspondence to the Department on or about September 24, 2007, informing the Department of the above noted incident which occurred between the hours of 14:00 to 17:00 on September 17, 2007, at mile marker 151 along the west bank of the Mississippi River in St. James Parish. According to the Respondent's correspondence dated September 24, 2007, the oily wastewater was discovered between several barges owned by ACBL. ACBL's crew immediately notified the U.S Coast Guard and contained the release. The Respondent was notified of the incident on September 18, 2007. According to the Respondent's correspondence, operations at the facility were shutdown immediately upon being notified of the incident.

Additionally, the Respondent also indicated in the correspondence dated September 24, 2007, that the cause of the oily wastewater discharged into the Mississippi River was the result of equipment design failure of the wastewater treatment system. The Respondent indicated that the oily water was pretreated, separated, and then neutralized. However, the oil came out of solution and overpowered the system, and then the oily sludge eventually collected into the tank of Outfall 001 and during normal operations was discharged into the Mississippi River. Furthermore, the Respondent's noncompliance report dated September 19, 2007, of the incident, reported the unauthorized discharge to the Mississippi River to be less than 97.5 gallons. The reportable quantity for oil is 42 gallons. The Respondent's unauthorized discharge of partially treated wastewater into waters is a violation of La. R.S. 30:2076 (A)(1)(b), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.501.C. The failure to operate and maintain all systems of treatment and control is in violation of LPDES permit LA0122726 (Part III, Section A.2 and B.3), La. R.S. 30:2076(A) (1), La. R.S. 30:2076(A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.

On or about August 23, 2008, an inspection of the facility was conducted in response to a citizen complaint. The inspection and subsequent file review revealed the following violations:

- A. The Respondent failed to provide prompt notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC) of an unauthorized discharge exceeding a reportable quantity, in violation of LAC 33:I.3917.A. Specifically, the Respondent caused and/or allowed the release of a reportable quantity (greater than 42 gallons) of oil on or about August 20, 2008, but failed to report the release

to SPOC until after the Department initiated an inspection of the facility on August 23, 2008.

- B. The Respondent failed to determine if the solid wastes generated as a result of the release are hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent failed to perform waste determinations for solid wastes, including but not limited to, used absorbent booms and impacted environmental media generated as a result of the August 20, 2008, release of oil contaminated wastewaters.
- C. The Respondent deposited and/or allowed the deposit of regulated solid waste at the facility without a permit or other authorization, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, the Respondent initiated a remediation of the release of oily wastewaters following the Department's August 23, 2008, inspection. However, subsequent inspections of the facility conducted by the Department confirmed that the above-referenced solid wastes had not been disposed of at an authorized facility and that further remediation is necessary to address contaminated environmental media in the ditch system.

On or about August 25, 2008, the Department conducted a multimedia compliance inspection of the facility. The inspection and subsequent file review revealed the following violations:

- A. The Respondent failed to determine whether several solid wastes present at the facility are hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent failed to perform waste determinations for the following solid wastes noted during the August 25, 2008, inspection:

1. The spill(s) of untreated oily wastewaters to the ground within the unlined wastewater treatment system's containment berm from overflows and/or discharges from the wastewater treatment system;
2. The spill(s) of untreated oily wastewaters to the unlined, man-made ditch and surface soils located in the rear operating portion of the facility, resulting from overflows of oily wastewaters collecting on the concrete pad located north of the wastewater treatment;
3. The contents of a 30-gallon, black, plastic container located near a steel wall west of the used oil storage tanks. The container had multiple holes and cracks allowing the rainfall to come in contact with the contents causing the container to fume visibly;
4. Five (5) containers of spent carbon and numerous tote bins of spent carbon located on the west side of a steel wall west of the used oil storage tanks;
5. The spill(s) of an unidentified substance on the ground located near the 1-gallon and 55-gallon containers within the area of the waste pile located west of the used oil storage tanks;
6. The contents of a 55-gallon, light red (faded to pink) container buried upside down within the waste pile located west of the used oil storage tanks. An inspection of the container confirmed that it contains a significant amount of liquid.
7. A pile of soil and trash containing what appeared to be pellets of carbon and the former contents of a packing column or molecular sieve observed in the southwestern portion of the facility;

8. A pile of dark stained clay material located in the southwest operating portion of the facility;
 9. A five (5) to seven (7) foot diameter spill(s) of an unidentified substance dark in color observed near the southern end of a blue hose stretching from the area located southwest of the wastewater treatment system south to a pond in a wooded area; and
 10. An area of dark stained soil and concrete approximately ten (10) feet in diameter located northeast of the used oil storage tanks and south of the laboratory.
- B. The Respondent failed to clearly mark universal waste batteries or a container storing universal waste batteries with the words “Universal Waste Battery(ies)” or “Waste Battery(ies)” or “Used Battery(ies) ,” in violation of LAC 33:V.3823.A.1. Specifically, the respondent failed to label the five (5) universal waste batteries observed northeast of the wastewater treatment system and west of the south pond with the words “Universal Waste Battery(ies)” or “Waste Battery(ies)” or “Used Battery(ies) ”.
- C. The Respondent failed to demonstrate the length of time that universal waste had accumulated onsite following the date it became a universal waste, in violation of LAC 33:V.3825.C. Specifically, the Respondent failed to label the five (5) universal waste batteries observed northeast of the wastewater treatment system and west of the south pond batteries with an accumulation start date or to utilize

another method that demonstrates that the batteries had not been stored onsite in excess of one (1) year.

- D. The Respondent failed to provide a container in good condition for storage of used oil, in violation of LAC 33:V.4049.B.2. Specifically, the Respondent stored used oil in an open-top plywood box that was observed to be leaking from the four corners of the box.
- E. The Respondent failed to label or clearly mark containers storing used oil with the words "Used Oil," in violation of LAC 33:V.4049.F.1. Specifically, the Respondent failed to label a plywood box containing used oil located near the drum storage area with the words "Used Oil".
- F. The Respondent failed to label or clearly mark four (4) aboveground tanks storing used oil with the words "Used Oil," in violation of LAC 33:V.4049.F.1.
- G. The Respondent failed to equip the new aboveground used oil storage tanks with a secondary containment system sufficiently impervious to prevent used oil releases into the containment system from migrating to the soil, groundwater, or surface water in violation of LAC 33:V.4049.E.2. Specifically, according to statements provided by Mr. Jeff Dabadie, Plant Manager, the secondary containment berms were constructed, at least in part, of a mixture of non-compacted clay, sludge material removed from the five (5) wastewater storage tanks, and sand. Additionally, evidence of releases from the containment system was observed during the inspection.
- H. The Respondent deposited and/or allowed the deposit of regulated solid waste at the facility including, but not limited to, waste tires, discarded toys, food waste,

filled trash bags, mattresses, furniture, insulation, and empty collapsible hoses, without a permit or other authorization, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C.

- I. The Respondent deposited and/or allowed the deposit of industrial solid waste into an onsite surface impoundment without a permit or other authorization, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, wastewater and wastewater sludge was discharged from an overflow pipe from the Outfall tank and accumulated in a 20x10x2 foot pond immediately north of the tank.

On or about August 27, 2008, the Department conducted a multimedia compliance inspection of the facility. The inspection and subsequent file review revealed the following violations:

The Respondent failed to determine whether solid waste generated as a result of a spill(s) of oily wastewater is a hazardous waste, in violation of LAC 33:V.1103. Specifically, the Respondent failed to conduct a waste determination for contaminated environmental media located in the area of the "South Pond" generated as a result of releases from the broken and/or leaking piping downstream of the Pre-Carbon Filter Tank (or Sand Filters).

On or about August 28, 2008, the Department conducted a compliance evaluation of the facility to determine compliance with the Water Quality Regulations. The inspection and subsequent file review revealed the following violations:

- A. The Respondent submitted incomplete and/or inaccurate Discharge Monitoring Reports (DMRs) for the following monitoring periods:

Period	Outfall	Incomplete and/or inaccurate DMR Observations
May 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported
April – June 2007	002	<ol style="list-style-type: none"> 1. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 2. pH reported incorrectly 3. Incorrect Discharge Number reported
June 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported
July 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported
August 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported
September 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. TSS and BOD₅ loadings are calculated incorrectly ⁵
October 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. TSS and BOD₅ loadings are calculated incorrectly ⁵
Oct. – Dec. 2007	002	<ol style="list-style-type: none"> 1. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 2. pH reported incorrectly 3. Monitoring Period reported is inaccurate ³

Period	Outfall	Incomplete and/or inaccurate DMR Observations
November 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. TSS and BOD₅ loadings are calculated incorrectly
December 2007	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵
January 2008	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵
February 2008	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵
March 2008	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵
Jan. – March 2008	002	<ol style="list-style-type: none"> 1. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 2. pH reported incorrectly ² 3. Monitoring Period reported is inaccurate ⁴ 4. Incorrect Discharge Number reported
April 2008	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵

Period	Outfall	Incomplete and/or inaccurate DMR Observations
May 2008	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵
June 2008	001	<ol style="list-style-type: none"> 1. Monthly Average Values were not reported ¹ 2. Number of Exceedances column, frequency of Analysis Column and sample Type Column were not reported 3. pH reported incorrectly ² 4. Monitoring Period reported is inaccurate ³ 5. Incorrect Discharge Number reported 6. Monthly Average loadings for TSS and BOD₅ not reported ⁵

¹ Monthly Average Values were not reported for Outfall 001 for the following parameters: TSS, BOD₅, Fecal Coliform, Total Cadmium, Total Cobalt, Total Copper, Total Mercury, Total Tin, Butylbenzyl phthalate, Carbazole, n-Decane, Fluoranthene, and n-Octadecane

² pH minimum and pH maximum values shall be reported in the correct minimum and maximum columns

³ Two DMRs are submitted per monitoring period for Outfall 001. LPDES permit LA0122726 requires one DMR form per month for Outfall 001 (summarize monitoring results monthly) and to submit DMRs quarterly

⁴ LPDES permit LA0122726 requires 1/6 months monitoring for Outfall 002 (from January - June and July - December) and one DMR form per six month period shall be prepared and submitted semi-annually.

⁵ Daily flow shall be used to calculate TSS and BOD₅ loadings

Each submittal of incomplete and/or inaccurate DMRs from May 2007 through August 2007 is a violation of Administrative Order WE-AO-07-0092, La R.S. 30:2076 (A) (3), and LAC 33:IX.501.A. Each submittal of incomplete and/or inaccurate DMRs from September 2007 through June 2008 is a violation of LPDES permit LA0122726 (Part I, Pages 2-4, Part II, Section A.10, and Part III, Section A.2), La R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A and LAC 33:IX.2701.L.4.d.

B. The Respondent exceeded effluent limitations contained in Administrative Order WE-AO-07-0092 and LPDES permit LA0122726. These exceedances were reported by the Respondent on DMRs for the following monitoring periods:

Date	Outfall	Parameter	Permit Limit	Sample Value
May 2007	001	Oil and Grease Weekly Average	15 mg/L	31.8 mg/L
		BOD ₅ Weekly Average	45 mg/L	52.6 mg/L
		Fecal Coliform Weekly Average	400 col/100 ml	> 2,000 col/100 ml
April-June 2007	002	Fecal Coliform Daily Maximum	400 col/100 ml	> 2,000 col/100 ml
June 2007	001	Fecal Coliform Daily Maximum	400 col/100 ml	> 2,000 col/100 ml
		TSS Weekly Average	45 mg/L	53.3 mg/L
		BOD ₅ Weekly Average	45 mg/L	135 mg/L
July 2007	001	TSS Weekly Average	45 mg/L	85.7 mg/L
		TSS Weekly Average	45 mg/L	45.5 mg/L
July 2007	001	BOD ₅ Weekly Average	45 mg/L	121 mg/L
August 2007	001	TSS Weekly Average	45 mg/L	100 mg/L
	001	Total Tin Weekly Average	0.335 mg/L	4.21 mg/L
	001	Total Arsenic Weekly Average	0.100 mg/L	0.201 mg/L
September 2007	001	BOD ₅ Weekly Average	45 mg/L	293 mg/L
October 2007	001	BOD ₅ Weekly Average	45 mg/L	152 mg/L
November 2007	001	BOD ₅ Weekly Average	45 mg/L	285 mg/L
	001	BOD ₅ Weekly Average	45 mg/L	192 mg/L
December 2007	001	Oil and Grease Weekly Average	15 mg/L	15.6 mg/L
	001	BOD ₅ Monthly Average	45 mg/L	279 mg/L
	001	Fluoranthene Weekly Average *	0.0537 mg/L	0.0543 mg/L
January 2008	001	BOD ₅ Weekly Average	45 mg/L	92 mg/L
	001	Total Zinc Weekly Average *	1.0 mg/L	1.12 mg/L
February 2008	001	BOD ₅ Weekly Average	45 mg/L	132 mg/L
March 2008	001	BOD ₅ Weekly Average	45 mg/L	118 mg/L
	001	Total Tin Weekly Average *	0.335 mg/L	.832 mg/L
	001	Total Zinc Weekly Average *	1.0 mg/L	1.2 mg/L

*24 hr. oral notification for violations of maximum daily discharge limitations (highest allowable "daily discharge") not reported to the Department

Each effluent violation from May 2007 through August 2007 is a violation of Administrative Order WE-AO-07-0092, La R.S. 30:2076 (A) (3), and LAC 33:IX.501.A. Each effluent violation from September 2007 through March 2008 is a violation of LPDES permit LA0122726 (Part I, Part II, Section A.9 and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. *Additionally, a file review conducted on or about February 2, 2009, revealed that the Respondent failed to properly notify the Department for violations of the maximum daily limitations (highest allowable “daily discharge”) at Outfall 001. Specifically, the Respondent is required to provide oral notification for violations of the maximum daily limitations, followed by a subsequent written notification within five (5) days. A file review revealed the Respondent submitted written notification for violations of the maximum daily limitations untimely. Additionally, the Respondent failed to provide 24-hour oral notification for violations of the daily maximum limitations. The Respondent’s failure to properly notify the Department for violations of the daily maximum limitations as noted above at Outfall 001 is a violation of LPDES permit LA0122726 (Part II, Section A.5 and Part III, Sections A.2 and D.6.e.3), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, LAC 33:IX.2701.A, LAC 33:IX.2701.L.6.a, and LAC 33:IX.2707.G.

- C. The Respondent failed to monitor the pH parameter in accordance with test procedures approved under 40 CFR Part 136. Specifically, the inspection revealed the Respondent monitors pH with litmus paper and/or a pH meter which

- performs only a one point calibration. The Respondent's failure to use approved test procedures approved under 40 CFR Part 136 is a violation of LPDES permit LA0122726 (Part III, Sections A.2 and C.5.a), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A and LAC 33:IX.2701.J.4.
- D. The Respondent failed to maintain calibration records for its pH meter. Specifically, at the time of the inspection there were no records maintained onsite for the pH meter. The Respondent's failure to maintain pH calibration records is a violation of LPDES permit LA0122726 (Part III, Sections A.2 and C.3), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A and LAC 33:IX.2701.J.2.
- E. The Respondent failed to monitor the effluent at Outfall 001 annually for the presence of toxic substances. Specifically, the Respondent failed to monitor the effluent in 2007. The Respondent's failure to monitor the effluent annually for the presence of toxic substances is in violation of LPDES permit LA0122726 (Part I, Page 2, Part II, Page 7 and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- F. The Respondent failed to prepare and implement a Stormwater Pollution Prevention Plan (SWP3) within six (6) months of the effective date of the permit. At the time of the inspection, there was no SWP3 onsite. Additionally, there was numerous oil stains and/or spills at the facility which occurred prior to the Department's investigation that were not remediated in a timely manner. The Respondent's failure to prepare, and implement an SWP3 is a violation of LPDES permit LA0122726 (Part II, Section B.2, and Part III, Section A.2), La. R.S.

30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

- G. The Respondent failed to develop and implement a Spill Prevention and Control Plan (SPC). Specifically, at the time of the inspection the Respondent did not have a SPC plan developed for the facility. Additionally, photographs taken during the inspection show evidence of oily wastewater spilled inside and outside of the secondary containment berm of the wastewater treatment system. The Respondent's failure to prepare and implement an SPC plan is a violation of LPDES permit LA0122726 (Part II, Section B.2, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.905.B.

On or about August 28, 2008, and August 29, 2008, the Department conducted a multimedia compliance inspection and sampling event at the facility. The Department collected soil, sludge, water, and container content samples from numerous locations within the facility to determine whether any spills and/or releases of waste and/or the contents of several containers located onsite would be classified as a hazardous waste. The contents of a container located in the drum storage area were sampled during the August 28, 2008, inspection. According to multiple statements provided by Mr. Charles Toth and Mr. Jeff Dabadie, the container was believed to contain paint waste and had been brought to the facility by a former employee for storage and/or disposal. According to the analytical results, the contents of the container exceeded the Toxicity Characteristic and Leaching Procedure (TCLP) maximum concentration

limit for benzene, 2-butanone (or methyl ethyl ketone), tetrachloroethene, and trichloroethene and, therefore, are classified as hazardous waste. The inspection and analytical results obtained for the samples taken during the inspection revealed the following violations:

- A. The Respondent accepted hazardous waste generated offsite without a hazardous waste permit, in violation of LAC 33:V.303.B. Specifically, the Respondent accepted the above-referenced container of hazardous waste generated offsite for treatment, storage, and/or disposal without a hazardous waste permit.
- B. The Respondent stored offsite-generated hazardous waste at the facility for greater than one (1) year, in violation of LAC 33:V.2205.B. Specifically, due to accepting offsite-generated hazardous waste as noted in Findings of Fact XIII.A above, the Respondent was subject to compliance with the provisions of LAC 33:V.Chapters 15 & 22 as required by LAC 33:V.1501.D. Additionally, according to statements provided by Mr. Charles Toth and Mr. Jeff Dabadie, the above-referenced-container had been stored at the facility for greater than one (1) year and possibly as long as two (2) years.

On or about October 17, 2008, personnel from the Office of Environmental Compliance, in conjunction with the Department's Criminal Investigations Division (CID), conducted a multimedia inspection and sampling event at the facility. During the inspection, CID requested all records relevant to the operation of the facility. The contents of Frac Tank 1275 and Frac Tank 3212, located west of the wastewater receiving tanks, were sampled during the October 17, 2008, inspection. According to statements provided by Mr. Jeff Dabadie, Frac Tank 1275 and Frac Tank 3212 store sludges removed from the bottoms of the five (5) adjacent frac tanks utilized to receive deliveries of offsite-generated wastewaters. According to the analytical

results, the contents of Frac tank 3212 exceeded the Toxicity Characteristic and Leaching Procedure (TCLP) maximum concentration limit for benzene, and, therefore, are classified as a hazardous waste. The inspection and analytical results obtained for the samples taken during the inspection revealed the following violations:

- A. The Respondent failed to determine whether solid waste sludges stored in Frac Tank 3212 were a hazardous waste, in violation of LAC 33:V.1103. Specifically, the wastewater receiving tank sludges were only confirmed as hazardous waste as a result of the Department's October 17, 2008, sampling event.
- B. The Respondent purposefully caused and/or allowed the hatch of a hazardous waste container (Frac Tank 3212) to remain open to treat hazardous waste through volatilization of volatile organic constituents (VOCs) to the atmosphere, in violation of LAC 33:V.303.B and LAC 33:V.1109.E.1.a.i. Specifically, during the October 17, 2008, inspection, Mr. Jeff Dabadie stated that the hatches of the frac tanks were left open, except during rain events, in order to assist in the separation process. The hatch of Frac Tank 3212 was observed open during the inspection and again on or about March 11, 2009.

Over the course of the multiple inspections noted above, the Department requested the Respondent to provide numerous records to assess compliance with applicable rules and regulations pertaining to facility plans, operating record, and record maintenance. As a result of these records requests the following violations were discovered:

- A. The Respondent failed to develop and maintain a Spill Prevention, Control, and Countermeasures Plan (SPCC Plan) in accordance with the requirements specified in 40 CFR Part 112, in violation of LAC 33:V.4049.

- B. The Respondent failed to develop and maintain a facility contingency plan designed to minimize the hazards to human health and environment from fire, explosion, or any unplanned release of used oil to air, soil, or surface water which could threaten human health or the environment, in violation of LAC 33:V.4045.B
- C. The Respondent failed to develop and maintain a used oil processor written analysis plan describing procedures utilized to ensure compliance with LAC 33:V.4047, in violation of LAC 33:V.4051.
- D. The Respondent failed to retain records for each shipment of used oil and/or wastewaters containing used oil accepted for processing/re-finishing, in violation of LAC 33:V.4053.C.

On or about February 16, 2009, and February 17, 2009, a file review was conducted that revealed the following violations:

- A. The Respondent failed to submit a written report within seven (7) calendar days of the unauthorized discharge notification provided by the Respondent on or about August 23, 2008, in accordance with LAC 33:I.3917, in violation of LAC 33:I.3925.
- B. The Respondent failed to notify the Office of Environmental Services within seven (7) days of required changes in the information submitted in its application for an Environmental Protection Agency (EPA) identification number, in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to notify the Department of its onsite hazardous waste activities on its HW-1 form.

C. The Respondent failed to maintain and operate the used oil and wastewater treatment facilities in a manner that minimized the possibility of a fire, explosion, or any unplanned release of used oil to air, soil, or surface water which could threaten human health or the environment in violation of LAC 33:V.4045.A. Specifically, the Respondent:

1. caused and/or allowed large amounts of oily wastewaters to be released within the used oil tanks and waste water treatment system containment systems;
2. caused and/or allowed large amount of oily wastewaters to be released to the concrete pad north of the wastewater treatment system containment berm from where they flowed to ditches located near the rear of the operating portion of the facility;
3. failed to construct and maintain adequate secondary containment structures for the used oil tanks and the wastewater treatment system; and
4. caused and/or allowed the release of a reportable quantity of used oil (exceeding 42 gallons) into a ditch system which flows offsite.

D. The Respondent failed to notify the Office of Environmental Services within thirty (30) days of becoming a generator of industrial solid waste, in violation of LAC 33:VII.401.A. Specifically, Frac Tank 1275 contains waste sludges generated onsite, at least in part, during the removal of sludge material from the wastewater receiving frac tanks. Therefore, the waste sludges contained within Frac Tank 1275 are classified as industrial solid waste.

- E. The Respondent failed to notify the Department of changes in procedures described in its LPDES permit application. Specifically, the inspection conducted on or about August 28, 2008, revealed that the facility maintained incomplete records of all incoming waste loads. However, waste profiles were not obtained from any customers prior to the acceptance of their wastewater as described in the Respondent's LPDES application. Additionally, the inspection also revealed the Respondent batch discharges the effluent at Outfall 001 instead of continuously discharging the effluent as described in the Respondent's LPDES application. The Respondent's failure to notify the Department of changes in procedures described in its LPDES application is a violation of LPDES permit LA0122726 (Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A and LAC 33:IX.2701.L.8.
- F. The Respondent failed to submit monthly DMRs for Outfall 001 on a quarterly basis and semiannual DMRs for Outfall 002 on a semiannual basis. Specifically, the Respondent failed to submit monthly DMRs on a quarterly basis for the monitoring periods of July 2008, August 2008, September 2008, October 2008, November 2008 and December 2008. Additionally, the Respondent failed to submit semiannual DMRs for Outfall 002 for the monitoring period of July through December 2008. Each failure to submit DMRs is in violation of LPDES permit LA0122726 (Part II, Section A.10 and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(1)(b), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

G. The Respondent failed to submit monthly DMRs for Outfall 001 timely. Specifically, the Department received the Respondent's DMRs for the monitoring period of November 2007 on March 3, 2008. This DMR is due the following month by January 28th. Additionally, the Department received the Respondent's DMRs for the monitoring periods of January 2008, February 2008 and March 2008 on August 18, 2008. These DMRs are due April 28, 2008. Each failure to submit DMRs in a timely manner for Outfall 001 is a violation of LPDES permit LA0122726 (Part II, Section A.10 and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

III

In response to Compliance Order & Notice of Potential Penalty Enforcement No. MM-CN-09-0006, Respondent made a timely request for a hearing.

IV

This settlement is consistent with an April 7, 2009 23rd Judicial District Court Stipulated Order (suit # 33,014, Div. E) entered into by the Respondent and the Department.

V

Respondent agrees to complete the following requirements which will completely and fully satisfy Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-09-0006 and Suit # 33,014, Div. E in the 23rd Judicial District Court:

A. To submit, within thirty (30) days of the effective date of this agreement, to and for the approval of the Department's Remediation Division, a Risk-Based Corrective Action Program (RECAP) Site Investigation Work Plan. The RECAP

Site Investigation shall address the assessment of residual contaminant levels of the following four (4) areas of concern (as referenced and described on pages 5-7 of the Respondent's March 23, 2010, correspondence to the Department):

- i. the "South Pond;"
 - ii. the "former PVC Pipe Area;"
 - iii. the "T-Tank Area;"and
 - iv. the "South Ditch System.
- B. To implement, within thirty (30) days of the Department's approval, the RECAP Site Investigation Work Plan.
- C. The Respondent shall notify the Department at least seven (7) days prior to any sampling event conducted in association with the RECAP site investigation to allow the Department to witness the sampling event and to approve the number and location of samples collected.
- D. To submit to the Department's Enforcement Division, the RECAP Site Investigation Report within ninety (90) days of completion of the RECAP Site Investigation.
- E. To complete, to the Department's satisfaction, removal, characterization, and disposal of the large solid waste pile located in the southwestern portion of the Respondent's facility.

VI

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 ONE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS

(\$125,000.00), of which Fifty-Nine Thousand One Hundred Fifty And No/100 Dollars (\$59,150.00) represents the Department's enforcement costs, in full 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).

VII

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order & Notice of Potential Penalty, Enforcement, No. MM-CN-09-0006, 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.

VIII

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.

IX

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.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. James Parish, Louisiana. The advertisement, in form, wording, and size 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.

XI

Payment is to be made in thirty-six (36) monthly installments. The first thirty-five (35) installments shall be Three Thousand Five Hundred and No/100 Dollars (\$3,500.00) each. The first payment is due within ten (10) days from notice of the Secretary's signature. Subsequent payments are due on the first day of each consecutive month. The thirty-sixth (36) installment and final payment shall be Two Thousand Five Hundred and No/100 Dollars (\$2,500.00), for a total of One Hundred Twenty-Five Thousand and No/100 Dollars (\$125,000.00). If payment is not received within this time frame and in the amount stipulated above, 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).

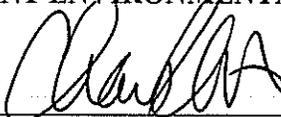
XII

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

XIII

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.

ARMANT ENVIRONMENTAL SERVICES, LLC

BY: 

(Signature)

Charles Ernest Toth

(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 24 day of January, 2012, at Metairie Louisiana.



NOTARY PUBLIC (ID # _____)

Robert S. Savage

Notary Public No. 90863

Statewide Jurisdiction

My commission expires at death.

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch Secretary

BY: 

Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 19th day of April, 2012, at Baton Rouge, Louisiana.



NOTARY PUBLIC (ID # 20590)

La. Bar Roll #

Life Commissioner

Debra King

(stamped or printed)

Approved: 

Cheryl Sonnier Nolan, Assistant Secretary