

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TODD TIDWELL CONSTRUCTION, L.L.C.
DREW PARTNERSHIP, L.L.C.

AI # 170857

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

* Settlement Tracking No.
* SA-WE-12-0066
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* Enforcement Tracking No.
* WE-CN-11-01193
* WE-CN-11-00075
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SETTLEMENT

The following Settlement is hereby agreed to between Todd Tidwell Construction, L.L.C. and Drew Partnership, L.L.C. (“Respondents”) 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

Respondents are Limited Liability Companies that own and/or operate the Versailles Estates construction project located at 730 Forty Oaks Farm Road, West Monroe, Ouachita Parish, Louisiana (“the Facility”).

II

On November 17, 2011, the Department issued to Respondents a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Nos. WE-CN-11-01193 and WE-CN-11-00075 respectively, which was based upon the following findings of fact:

The Respondent owns and/or operates the Versailles Estates construction project located at

730 Forty Oaks Farm Road in West Monroe, Ouachita Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit for Discharges of Storm Water from Construction Activities Five (5) Acres or More on May 20, 2010, and was specifically assigned permit number LAR10G424. LPDES permit LAR10G424 will expire on September 30, 2014. Under the terms and conditions of LPDES permit LAR10G424, the Respondent is authorized to discharge storm water associated with construction activities into North Fork of Tupawek Bayou, waters of the state.

Inspections conducted by the Department on or about August 26, 2010, January 24, 2011, and January 25, 2011, in response to a citizen's complaints, revealed that the Respondent failed to implement an adequate Storm Water Pollution Prevention Plan (SWP3). Specifically, the Respondent's storm water controls (SWCs) were compromised, inadequate, and/or absent. During the January 2011 inspections, the following locations were noted as areas of concern:

1. The berm and culvert located on the north side of Lagniappe Circle which leads to the adjacent pond south of Lagniappe Circle had compromised and/or inadequate SWCs;
2. The culvert located on the north side of Lagniappe Circle at the southwest corner of the site had compromised and/or inadequate SWCs;
3. The frontage of Forty Oaks Farm Road and Lagniappe Circle had no SWCs in place; and
4. The culvert at the corner of Forty Oaks Farm Road and the north side of Lagniappe Circle had no SWCs in place.

Siltation/sedimentation resulting from previous runoff was observed at the following locations during the January 24, 2011 inspection:

1. The culvert located on the south side of Lagniappe Circle which discharges directly into the adjacent pond south of Lagniappe Circle;
2. The culvert located on the north side of Lagniappe Circle at the southwest corner of the site;
3. The culvert at the corner of Forty Oaks Farm Road and the north side of Lagniappe Circle; and
4. The culvert at the corner of Forty Oaks Farm Road and the south side of Lagniappe Circle.

During the January 25, 2011 inspection, discharges of siltation/sedimentation were observed at the following locations:

1. The culvert located on the north side of Lagniappe Circle which leads to the adjacent pond south of Lagniappe Circle;
2. The culvert located on the south side of Lagniappe Circle which discharges directly into the adjacent pond south of Lagniappe Circle;
3. The culvert located on the north side of Lagniappe Circle at the southwest corner of the site; and
4. The culvert at the corner of Forty Oaks Farm Road and the north side of Lagniappe Circle.

Additionally, the inspections revealed that the Respondent failed to post a notice near the main entrance of the construction site. Each failure to implement an adequate SWP3 is a violation of LPDES permit LAR10G424 (Part IV; and Part VI, Section A.1), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

The Department issued **WARNING LETTER WE-L-11-00075** to the Respondent on January 31, 2011, referencing the August 26, 2010 inspection. The Department issued **WARNING LETTER WE-L-11-00680** to the Respondent on May 10, 2011, referencing the January 24, 2011 inspection. The Respondent submitted a written response to the Department on or about May 20, 2011.

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this Settlement.

An inspection conducted by the Department on or about November 14, 2011, in response to a citizen's complaint, revealed that the Respondent failed to implement an adequate Storm Water Pollution Prevention Plan (SWP3). Specifically, the Respondent's storm water controls (SWCs) were compromised, inadequate, and/or absent. During the November 2011 inspection, discharges of siltation/sedimentation resulting from previous runoff were observed at the following locations:

1. The culvert located on the north side of Lagniappe Circle which leads to the adjacent pond

south of Lagniappe Circle;

2. The culvert located on the south side of Lagniappe Circle which discharges directly into the adjacent pond south of Lagniappe Circle;
3. The culvert located on the north side of Lagniappe Circle at the southwest corner of the site; and
4. The culvert at the corner of Forty Oaks Farm Road and the north side of Lagniappe Circle.

The failure to implement an adequate SWP3 is a violation of LPDES permit LAR10G424 (Part IV; and Part VI, Section A.1), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

III

Respondents deny they committed any violations or that they are liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondents, without making any admission of liability under state or federal statute or regulation, agree to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND TWO HUNDRED SEVENTY-TWO AND NO/100 DOLLARS (\$3,272.00), of which Two Thousand Seven Hundred Twenty-Two and 26/100 Dollars (\$2,722.26) 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

Respondents further agree that the Department may consider the inspection report(s), the Consolidated Compliance Order & 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 Respondents, and in any such action Respondents shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged

herein for the sole purpose of determining Respondents' 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 Respondents hereby waive 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

The Respondents have caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ouachita 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. Respondents have 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.

IX

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).

X

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

XI

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.

TODD TIDWELL CONSTRUCTION, L.L.C.
DREW PARTNERSHIP, L.L.C.

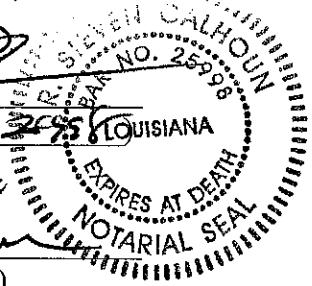
BY: *TMTD James E. Garcia*
(Signature)

Todd Tidwell JAMES E GARCIA
(Printed)

TITLE: *Owner*

THUS DONE AND SIGNED in duplicate original before me this *21st* day of
November, 20 *13*, at *West Morro, LA*.

[Signature]
NOTARY PUBLIC (ID # *25998*) LOUISIANA
R. Steven Calhoun
(stamped or printed)



LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: *[Signature]*
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this *20th* day of
Feb, 20 *14*, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # *19181*)

Perry Theriot
(stamped or printed)

Approved: *[Signature]*
Cheryl Sonnier Nolan, Assistant Secretary