

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TRANSIT MIX CONCRETE & MATERIALS
COMPANY OF LOUISIANA

AI # 1243

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

* Settlement Tracking No.
* SA-WE-14-0058
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* Enforcement Tracking No.
* WE-CN-04-0831
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SETTLEMENT

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

I

Respondent is a corporation that owned and/or operated a facility located in Lake Charles, Calcasieu Parish, Louisiana (“the Facility”).

II

On June 19, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-04-0831, which was based upon the following findings of fact:

“The Respondent owns and/or operates a ready-mix concrete plant located at 401 North Kirkman Street in Lake Charles, Calcasieu Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG110000 on

January 12, 1999, and was specifically assigned permit number LAG110067. The permit expired on December 31, 2004, and was administratively extended. LPDES permit LAG110067 was reissued to the Respondent on or about May 7, 2004, and will expire on March 14, 2009. The initial LPDES permit LAG110067 authorized the Respondent to discharge Process Wastewater and Process Area Stormwater via Outfalls 001, 003, 004 and Nonprocess Area Stormwater via Outfall 002. The re-issued LPDES permit LAG110067, also authorizes the Respondent to discharge the same type of wastewaters through those Outfalls into the Calcasieu River, waters of the state.

A file review conducted by the Department on or about March 10, 2008, revealed the Respondent failed to submit Discharge Monitoring Reports (DMRs) to the Department. Specifically, the Respondent failed to submit monthly DMRs on a quarterly basis for Outfalls 001, 002, 003, and 004 as required by LPDES permit LAG110067. Each failure to submit monthly DMRs to the Department on a quarterly basis for the monitoring periods of January 1999 through December 2006 is a violation of LPDES permit LAG110067 (Part II, Section C.6, and Part III, Sections A.2 and D.4), 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.

An inspection conducted by the Department on or about March 10, 2004, and a subsequent file review, revealed that the Respondent failed to record flow and measure pH for Outfall 001. Specifically, the Respondent failed to record flow and measure pH for Outfall 001 on the March 2003, June 2003, September 2003, and February 2004 through December 2007 DMRs provided by the Respondent. Each failure to report flow and pH on DMRs is a violation of LPDES permit LAG110067 (Part I, Section B, Outfall 001 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.J.3.

An inspection conducted by the Department on or about March 10, 2004, revealed effluent excursion violations on DMRs provided by the Respondent. Specifically, the Respondent reported

Total Suspended Solids (TSS), results of 258 mg/L for June 2003 and a result of 69 mg/L for September 2003 during the inspection. The permit limit for TSS is 45 mg/L. Each of the aforementioned effluent excursions is a violation of LPDES General Permit LAG110067 (Part I, Section B, Outfall 001 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.”

Transfer of ownership of the facility from Transit Mix Concrete and Materials Company of Louisiana to Louisiana Concrete, L.L.C. occurred on or about July 29, 2010, as indicated in the Notification of Change of Ownership/Operator Form (NOC-1) received on or about September 27, 2010. By letter from the Department issued on November 1, 2010, LPDES permit LAG110067 was transferred from Transit Mix Concrete and Materials Company of Louisiana to Louisiana Concrete, L.L.C. with the effective date of July 29, 2010.

A file review was conducted on December 21, 2010, of the DMRs submitted as required by Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-04-0831 in addition to a file review conducted on December 21, 2010, to determine if any additional violations occurred during the time period that the Respondent retained ownership of the facility.

The issues listed below are not the subject matter of an enforcement action issued by the Department, but are included as a part of this Settlement:

A file review conducted by the Department on December 21, 2010, revealed that the Respondent failed to report monitoring results for required parameters. Specifically, the following parameters were not reported on DMRs for the respective outfall and monitoring period:

Monitoring Period	Outfall	Parameter
January 2003, February 2003, April 2003, May 2003, July 2003, August 2003, October 2003, November 2003, December 2003 &	001	Flow TSS Oil & Grease pH

Monitoring Period	Outfall	Parameter
January 2004		
January 2003 – February 2004	003 & 004	Flow TSS Oil & Grease pH
January 2003 – February 2004	002	Flow

Each failure to report the monitoring results for a required parameter on DMRs is a violation of LPDES permit LAG110067 (Part I, Sections B and C.6 and Part III, Sections A.2 and D.4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.

A file review conducted by the Department on December 21, 2010, revealed exceedances of the permitted effluent limitations for Outfall 001. These effluent exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

Monitoring Period	Outfall	Effluent Characteristic	Permit Discharge Limit	Reported Value
March 2005	001A	TSS	50.0 mg/L (Daily Max.)	55 mg/L
July 2007	001B	TSS	50.0 mg/L (Daily Max.)	56 mg/L
July 2007	001C	TSS	50.0 mg/L (Daily Max.)	137 mg/L
August 2007	001B	TSS	50.0 mg/L (Daily Max.)	103 mg/L
December 2007	001B	TSS	50.0 mg/L (Daily Max.)	240 mg/L
August 2008	001A	TSS	50.0 mg/L (Daily Max.)	56 mg/L
	001B	TSS	50.0 mg/L (Daily Max.)	95.7 mg/L
	001B	pH	9.0 Standard Units (Max.)	9.1 Standard Units
July 2009	001A	TSS	50.0 mg/L (Daily Max.)	75 mg/L
	001C	TSS	50.0 mg/L (Daily Max.)	60 mg/L

Each effluent exceedance is a violation of LPDES permit LAG110067 (Part I, Section B, and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on December 21, 2010, revealed that the Respondent submitted incomplete and/or inaccurate DMRs to the Department for the following monitoring periods:

Monitoring Period	Outfall	Incomplete and/or inaccurate DMR observations
March 2005	001A	The number of exceedances column was marked with a "Y" instead of the number of exceedances that occurred during the monitoring period.
July 2007, August 2007, and December 2007	001B	The number of exceedances column was marked with a "Y" instead of the number of exceedances that occurred during the monitoring period.
July 2007	001C	The number of exceedances column was marked with a "Y" instead of the number of exceedances that occurred during the monitoring period.

Each failure to submit complete and/or accurate DMRs for the outfalls and associated monitoring periods listed above, is a violation of LPDES Permit LA110006 (Part II, Section D and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.d.

A file review conducted by the Department on December 21, 2010, revealed that the Respondent allowed unauthorized discharges with the addition of two outfalls (Outfall 003 (storm water and aggregate spray from unloading areas and stockpiles) and Outfall 006 (washrack and shop floor washdown water discharges from cement, concrete and asphalt facilities)) that were not included in LPDES permit LAG110067. Specifically, the Respondent reported discharges through Outfalls 003 and/or 006 on DMRs from January 2005 through December 2005 and January 2007 through December 2009, but notification to discharge to waters of the state from these two additional outfalls was not received by the Department. Each unauthorized discharge is a violation of LPDES permit LAG110067 (Part I, Section A), La. R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.D. The Department received from the Respondent on or about April 19, 2010, a letter dated April 15, 2010, including a map with an updated list of outfalls at the facility. On or about June 21, 2010, the Department modified LPDES permit LAG110067 to add the outfalls.

A file review conducted by the Department on or about December 21, 2010, revealed that the Respondent failed to measure and/or sample the effluent for the required parameters from Outfalls 001A, 001B, 001C, and 004 for the monitoring periods during January 2006 through December 2006. Specifically, the Department received a letter from the Respondent on or about September 10, 2008, that stated the DMRs for 2006 could not be identified and that it was possible that monitoring was not conducted. Based on this information, it was determined that the Respondent failed to measure the flow and pH of the effluent and also sample the effluent for total suspended solids (TSS) and oil & grease for the following outfalls and associated monitoring periods.

Monitoring Period	Outfall	Parameter
January 2006 – December 2006	001A, 001B, and 001C	Flow, total suspended solids (TSS), Oil & Grease, and pH
January 2006 – December 2006	004	Flow

Each failure to measure and/or sample the effluent for a parameter as required by LPDES permit LAG110067 is a violation of LPDES permit LAG110067 (Part I, Section B and Part III, Sections A.2 and C.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which Six Hundred Ninety-Four and 97/100 Dollars (\$694.97) 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), permit record(s), the CONOPP 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, 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.

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.

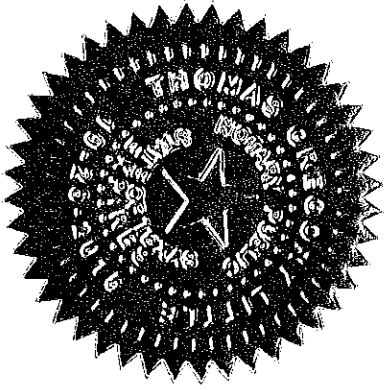
TRANSIT MIX CONCRETE &
MATERIALS COMPANY OF LOUISIANA

BY: Carl Campbell
(Signature)

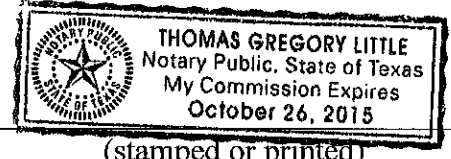
Carl Campbell
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 23rd day of March, 20 15, at 1211 E. Copeland Rd, Arlington, TX 76011



Thomas Gregory Little
NOTARY PUBLIC (ID # 12630339-2)



LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: D. Chance McNeely
D. Chance McNeely, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 16th day of June, 20 15, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: D. Chance McNeely
D. Chance McNeely, Assistant Secretary