

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SCHAMERHORN C/D LANDFILL INC

AI # 82479

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

* **Settlement Tracking No.**
* **SA-SE-24-0005**
*
* **Enforcement Tracking Nos.**
* **SE-CN-21-00078**
* **SE-CN-21-00532**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Schamerhorn C/D Landfill Inc (“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 owns and/or operates a Type III construction and demolition (C&D) debris and woodwaste landfill located in Leesville, Vernon Parish, Louisiana (“the Facility”).

II

On March 11, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. SE-CN-21-00078 (Exhibit 1).

On February 7, 2022, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. SE-CN-21-00532 (Exhibit 2).

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 TWENTY-TWO THOUSAND AND NO/100 DOLLARS (\$22,000.00), of which Two Thousand Six Hundred Twenty-One and 13/100 Dollars (\$2,621.13) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 Consolidated Compliance Order & Notice of Potential Penalty, Amended Consolidated Compliance Order & Notice of Potential Penalty and this Settlement Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Vernon Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement 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 attached hereto.

XI

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

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.

SCHAMERHORN C/D LANDFILL INC

BY: [Signature]

(Signature)

Chris Schamerhorn

(Printed)

TITLE: CFO

THUS DONE AND SIGNED in duplicate original before me this 24th day of May, 20 24, at Lake Charles, LA.

[Signature]

NOTARY PUBLIC (ID # 1435)

Laurie D Broussard

(stamped or printed)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

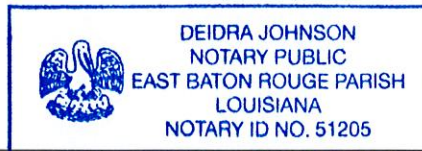
Aurelia S. Giacometto, Secretary

BY: [Signature]
Jemie "Jenny" Long, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 30th day of July, 20 24, at Baton Rouge, Louisiana.

[Signature]

NOTARY PUBLIC (ID # 51205)



(stamped or printed)

Approved: Aurelia S. Giacometto Lifetime Commission
Aurelia S. Giacometto, Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 11 2021

CERTIFIED MAIL (7019 2970 0000 6032 6974)
RETURN RECEIPT REQUESTED

SCHAMERHORN C/D LANDFILL INC
c/o Rodney Schamerhorn
Agent for Service of Process
350 North Fort Road
Leesville, LA 71446



**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. SE-CN-21-00078
AGENCY INTEREST NO. 82479**

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 **SCHAMERHORN C/D LANDFILL INC (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 Ashley Manuel at (225) 219-3794 or Ashley.Manuel@la.gov.

Sincerely,

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

CJC/AMM/amm
Alt ID Nos. P-0386-R1; RI- 13364
Attachment

c: Schamerhorn C & D Landfill
c/o Chris Schamerhorn
10443 Highway 8
Leesville, LA 71446

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

| | | |
|--|---|---------------------------------|
| IN THE MATTER OF | * | |
| | * | |
| SCHAMERHORN C/D LANDFILL INC | * | ENFORCEMENT TRACKING NO. |
| VERNON PARISH | * | |
| ALT ID NOS. P-0386-R1; RI-13364 | * | SE-CN-21-00078 |
| | * | |
| | * | AGENCY INTEREST NO. |
| PROCEEDINGS UNDER THE LOUISIANA | * | |
| ENVIRONMENTAL QUALITY ACT, | * | 82479 |
| 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 **SCHAMERHORN C/D LANDFILL INC (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 Type III construction and demolition (C&D) debris and woodwaste landfill, known to the Department as Schamerhorn C&D Landfill-Backhoe and Trucking (facility), located at 10443 Highway 8 in Leesville, Vernon Parish, Louisiana. The facility is approved to dispose of 3,000 wet tons per week of C&D debris and 2,000 wet tons per week of woodwaste. The facility receives C&D debris and offsite generated woodwaste from all parishes of Louisiana. The facility is currently operating under Solid Waste Standard Permit P-0386-R1. The Respondent applied for a Beneficial Use Plan (BUP) on or about February 14, 2018, to use recycled asphalt shingles for subbase stabilization, parking lots, rural roads, and driveways. The BUP states that recycled asphalt shingles will be delivered to an onsite recycle area, where pallets and foreign material will be removed. The Department approved the Respondent's request for a BUP on or about April 19, 2018. The Respondent submitted a

Waste Tire Generator Notification Form to the Department dated January 29, 2007, which classified the Respondent as a generator of ineligible tires. The Department approved the Waste Tire Generator Form on January 29, 2007, and the facility was assigned alternate identification number RI-13364.

II.

On or about December 14, 2020, an inspection was conducted to determine compliance with the Act and the supporting regulations. A Field Notice of Deficiency (FNOD) was hand-delivered to a representative of the Respondent on December 14, 2020, for areas of concern noted during the inspection. On or about January 15, 2021, the Department received a written response from a representative of the Respondent, in response to the FNOD, dated January 11, 2021. In the written response, the representative stated the second working face observed during the inspection is a stockpile of pre-hurricane shingles that is covered under a Beneficial Use Plan approved by the Department on April 19, 2018. The shingles have been moved to the working face of the landfill and disposed of as C&D material. The representative has been in contact with the Department to determine if a Beneficial Use Plan is needed to utilize treated utility poles at the facility. The representative stated on December 14, 2020, 7.43 tons of tires were hauled to Earth Energy Tire Recycling in Cleveland, Texas and on December 17, 2020, Colt Inc. picked up the remaining three hundred and two (302) auto tires, nineteen (19) truck tires, and one (1) 23.5/23 tire. Additionally, metal is actively being moved to the recycle facility awaiting Express Recycling to haul the metal. As of February 22, 2021, the Department has not approved a Beneficial Use Plan for the treated utility poles.

III.

The Department conducted multiple inspections at the above referenced facility from September 25, 2020, to January 11, 2021, 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 properly inspect waste that was coming into the landfill and control and prevent the entry of unauthorized waste, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-11, R-45, R-46 and R-47 of Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.719.B.6.a, and LAC 33:VII.901.A. Specifically, the Respondent allowed unauthorized waste, including spent pipeline pigs, spent blasting media, and treated utility poles, into the facility.

1. During inspections conducted on or about October 19, 2020, October 30, 2020, November 6, 2020, November 9, 2020, and November 13, 2020, spent pipeline pigs were observed at the facility. On or about November 20, 2020, a disposal ticket was provided to the Department verifying the spent pipeline pigs were sent offsite for disposal at Sabine Parish Landfill. Additional spent pipeline pigs were observed onsite during inspections conducted on or about December 11, 2020, and December 21, 2020.
2. During the October 30, 2020 inspection, spent blasting media was observed to be mixed in with a load of cardboard and plastic bags of pipe insulation. The spent blasting media was approximately one (1) to two (2) cubic yards in volume, and it was accepted and disposed of in the working face.
3. During inspections conducted on or about October 19, 2020, November 6, 2020, November 20, 2020, November 23, 2020, December 11, 2020, December 14, 2020, and December 21, 2020, treated utility poles were observed at the facility. The pile of utility poles observed on October 19, 2020, was approximately thirty (30) feet wide by one hundred (100) feet long and ten (10) feet high. During the December 14, 2020 inspection, a representative of the Respondent stated that the utility poles had been onsite for over one (1) year. The facility was approved for the reuse of utility poles on December 18, 2020; however, the Respondent accepted the poles before receiving authorization from the Department.

Additionally, during inspections conducted on or about October 19, 2020, October 23, 2020, and October 26, 2020, the Respondent did not inspect loads of waste coming into the facility.

- B. The Respondent allowed the unauthorized processing and disposal of solid waste, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically,
 1. The Respondent disposed of solid waste onsite. During inspections conducted on or about October 2, 2020 and October 19, 2020, a pile of recycled asphalt shingles was mixed in with excessive amounts of plastic material. The Respondent did not remove all foreign material from the recycled asphalt

shingles. The Respondent's approved BUP states that foreign material will be removed from the recycled asphalt shingles.

2. The Respondent processed solid waste by shredding. During an inspection conducted on or about December 14, 2020, remnants of spent pipeline pigs were observed near the shredder. A representative of the Respondent stated during the inspection that the spent pipeline pigs had been shredded.
- C. The Respondent failed to prevent the disposal of unacceptable waste, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-68 and R-11 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.C.1.f and LAC 33:VII.901.A. Specifically, during inspections conducted on or about October 2, 2020, October 19, 2020, October 23, 2020, October 30, 2020, November 2, 2020, November 6, 2020, November 9, 2020, November 13, 2020, November 16, 2020, November 20, 2020, November 23, 2020, December 7, 2020, December 21, 2020, and January 4, 2021, unacceptable waste was observed in the working face. The unacceptable waste included, but was not limited to, carpet, household garbage, cushions, plastic debris, food waste, pillows, water hose, toys, astro turf, carpet padding, stroller, gardening buckets, weed eater, bottles, tarps, plastic bags, clothing, blankets, oil filters, trashcans, satellite dish, buckets, and Diesel Exhaust Fluid containers. Unopened waste bags were observed in the working face area during numerous inspections. During the October 19, 2020 inspection, the Respondent was not opening waste bags to determine whether the bags contained unacceptable waste. Additionally, exposed unacceptable waste was observed in an area where the waste was previously covered. The cover for the unacceptable waste had eroded. The exposed waste included two (2) rolls of carpet and a couch cushion.
- D. The Respondent failed to deposit wastes in the smallest practical area and compact each day so that only one (1) working face is utilized, as specified in Attachments 33 and 40 of the approved permit application, in violation of Specific Requirements R-11 and R-55 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.c and LAC 33:VII.901.A. Specifically,
1. During inspections conducted on or about October 5, 2020, October 19, 2020, and October 23, 2020, the Respondent was not depositing waste into the

smallest practical area. The working face was approximately two hundred (200) feet by four hundred (400) feet instead of the permitted one (1) acre, which is approximately two hundred eight (208) feet by two hundred eight (208) feet.

2. During inspections conducted on or about September 28, 2020, October 19, 2020, October 23, 2020, October 26, 2020, and December 14, 2020, the Respondent was utilizing multiple working faces. The Respondent does not have approval for multiple working faces. In correspondence dated January 11, 2021, a representative of the Respondent stated the second working face observed during the inspection is a stockpile of pre-hurricane shingles which is covered under a beneficial use plan approved by the Department on April 19, 2018. The shingles have been moved to the working face of the landfill and disposed of as C&D material.
- E. The Respondent failed to ensure interim cover is applied with a minimum of twelve (12) inches of silty clays within thirty (30) days of disposal, as specified in Attachments 35 and 40 of the approved permit application, in violation of Specific Requirement R-11 and R-54 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.b and LAC 33:VII.901.A. Specifically, during inspections conducted on or about September 28, 2020, October 19, 2020, October 23, 2020, and October 26, 2020, the cover logs revealed that cover was not being applied every thirty (30) days. Additionally, inspections conducted on or about October 2, 2020, October 5, 2020, October 19, 2020, October 30, 2020, November 13, 2020, and November 20, 2020, revealed interim cover was inadequate, and areas of exposed waste were observed.
- F. The Respondent failed to maintain a cover log with all the required information, in violation of Specific Requirements R-11 and R-56 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.d, and LAC 33:VII.901.A. Specifically, during inspections conducted on or about October 30, 2020, and November 2, 2020, a review of the cover logs revealed the logs did not include the volume of the cover material, the description of where the cover material was applied, source of the cover material, and the depth of the cover material applied.
- G. The Respondent failed to adequately apply interim cover to minimize blowing paper and litter, as specified in Attachment 35 of the approved permit application, in violation

of Specific Requirements R-11 and R-53 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.a.iv, and LAC 33:VII.901.A. Specifically, during inspections conducted on or about September 28, 2020, October 19, 2020, October 30, 2020, and November 16, 2020, litter was observed within the facility and along the entrance. The litter was not being controlled by fencing and/or other measures.

- H. The Respondent failed to adequately apply interim cover to reduce noxious odors by minimizing outward movement of methane or other gases, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-11 and R-53 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.a.v, and LAC 33:VII.901.A. Specifically, noxious odors were detected during an inspection conducted on or about November 13, 2020. During an inspection conducted on or about November 16, 2020, a strong sulphur smell was detected in the covered slope area.
- I. The Respondent failed to apply adequate interim cover to control leachate generation, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-11 and R-53 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.a.ii, and LAC 33:VII.901.A. Specifically, during an inspection conducted on or about January 11, 2021, leachate was observed near the roadway.
- J. The Respondent failed to ensure unacceptable waste is stored in a closed container and removed from the landfill at least every seven (7) days, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-11 and R-73 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.C.4 and LAC 33:VII.901.A. Specifically, during inspections conducted on or about September 25, 2020, September 28, 2020, October 2, 2020, October 30, 2020, November 2, 2020, November 6, 2020, November 9, 2020, November 13, 2020, November 16, 2020, November 20, 2020, November 23, 2020, December 11, 2020, December 14, 2020, December 21, 2020, and January 11, 2021, unacceptable waste was stored for greater than seven (7) days, stored on the ground, and/or stored in uncovered bins.

1. Unacceptable waste stored on the ground included, but was not limited to, spent pipeline pigs, spent blasting media, treated utility poles, astro turf, furniture, tires, carpet, and carpet padding.
 2. Unacceptable waste stored in uncovered bins included, but was not limited to, spent pipeline pigs, tires, carpet, carpet padding, and mattresses.
 3. Unacceptable waste that had been onsite for greater than seven (7) days included, but was not limited to, spent pipeline pigs, spent blasting media, astro turf, treated utility poles, and mattresses.
- K. The Respondent failed to provide cover adequate to exclude water from waste tires, vector and vermin control, and a means to prevent or control standing water in the containment area, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirement R-11 of the Standard Permit P-0386-R1, LAC 33:VII.10519.I, LAC 33:VII.529.A.1, and LAC 33:VII.901.A. Specifically, inspections conducted on or about September 28, 2020, October 2, 2020, October 19, 2020, October 23, 2020, November 13, 2020, November 16, 2020, and December 14, 2020, waste tires were observed onsite, without cover. In correspondence dated January 11, 2021, the representative of the Respondent stated on December 14, 2020, 7.43 tons of tires were hauled to Earth Energy Tire Recycling in Cleveland, Texas. On December 17, 2020, Colt Inc. picked up the remaining three hundred and two (302) auto tires, nineteen (19) truck tires, and one (1) 23.5/23 tire.
- L. The Respondent stored waste tires for longer than permitted, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirement R-11 of the Standard Permit P-0386-R1 and LAC 33:VII.10519.J. Specifically, during an inspection conducted on or about October 19, 2020, a representative of the Respondent stated that the waste tires have been stored onsite for greater than one (1) year. In correspondence dated January 11, 2021, the representative of the Respondent stated on December 14, 2020, 7.43 tons of tires were hauled to Earth Energy Tire Recycling in Cleveland, Texas. On December 17, 2020, Colt Inc. picked up the remaining three hundred and two (302) auto tires, nineteen (19) truck tires, and one (1) 23.5/23 tire.
- M. The Respondent failed to transport more than twenty (20) waste tires using an authorized waste tire transporter as specified in Attachment 35 of the approved permit

application, in violation of Specific Requirement R-11 of the Standard Permit P-0386-R1 and LAC 33:VII.10509.D. Specifically, an inspection conducted on or about December 14, 2020, revealed the Respondent transported approximately seven hundred and forty-three (743) waste tires from the facility to Earth Energy Tire Recycling in Cleveland, Texas using a Solid Waste Transporter license on December 14, 2020. The Respondent is not authorized by the Department to transport waste tires.

- N. The Respondent failed to remove materials destined for recycling at least once every ninety (90) days, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirement R-11 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, and LAC 33:VII.901.A. Specifically, during inspections conducted on or about September 28, 2020, October 2, 2020, October 19, 2020, and October 23, 2020, metals for recycling were observed onsite. During the October 19, 2020 inspection, a representative of the Respondent stated the metals have been onsite for greater than one (1) year. In correspondence dated January 11, 2021, the representative of the Respondent stated metal is actively being moved to the recycle facility awaiting Express Recycling to haul the metal.

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 Standard Permit P-0386-R1.

II.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to properly inspect waste coming into the landfill. The Respondent shall institute procedures to prevent the acceptance of unauthorized waste, in accordance Standard Permit P-0386-R1 and LAC 33:VII.719.B.6.a.

III.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, the unauthorized processing and disposal of regulated solid waste in any area that is not permitted to receive such waste.

IV.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to prevent the disposal of unacceptable waste in the working face, in accordance with Standard Permit P-0386-R1 and LAC 33:VII.721.C.1.f.

V.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, depositing waste in the smallest practical area, ensuring only one (1) working face is utilized, and compacting waste daily, in accordance with Standard Permit P-0386-R1 and LAC 33:VII.721.A.2.c.

VI.

To apply, immediately upon receipt of this **COMPLIANCE ORDER**, interim cover with a minimum of twelve (12) inches of silty clays. The Respondent shall also ensure interim cover is applied every thirty (30) days to minimize the blowing of paper and litter, to reduce noxious odors by minimizing outward movement of methane and other gases, and to control leachate generation, in accordance with Standard Permit P-0386-R1 and LAC 33:VII.721.A.2.a.

VII.

To ensure, immediately upon receipt of this **COMPLIANCE ORDER**, a daily cover log is maintained at the facility, in accordance with Standard Permit P-0386-R1 and LAC 33:VII.721.A.2.d. The daily cover log shall include, but is not limited to include, the volume of the cover material, the description of where the cover material was applied, source of the cover material, and the depth of the cover material applied.

VIII.

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 Standard Permit P-0386-R1 and LAC 33:VII.721.C.4.

IX.

To provide, immediately upon receipt of this **COMPLIANCE ORDER**, adequate cover to all waste tires stored at the facility in accordance with Standard Permit P-0386-R1 and LAC 33:VII.10519.I.

X.

To properly dispose, immediately after receipt of this **COMPLIANCE ORDER**, all waste tires stored at the facility by sending them to an authorized waste tire processor using an authorized waste tire transporter, in accordance with Standard Permit P-0386-R1 and LAC 33:VII.10519.J. The Respondent shall also retain documentation demonstrating proper disposal of the waste tires and submit this documentation to the Enforcement Division within fifteen (15) days of completion.

XI.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, the transportation of more than twenty (20) waste tires unless a waste tire transporter authorization certificate is obtained from the Department.

XII.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, removing materials destined for recycling at least once every ninety (90) days, in accordance with Standard Permit P-0386-R1.

XIII.

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

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Ashley Manuel
Re: Enforcement Tracking No. SE-CN-21-00078
Agency Interest No. 82479

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-21-00078
Agency Interest No. 82479

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 Ashley Manuel at (225) 219-3794 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 33:1.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 11th day of March, 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: Ashley Manuel



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-21-00078 | Contact Name | Ashley Manuel |
| Agency Interest (AI) No. | 82479 | Contact Phone No. | (225) 219-3794 |
| Alternate ID Nos. | P-0386R1; RI-13364 | | |
| Respondent: | SCHAMERHORN C/D LANDFILL INC | Facility Name: | Schamerhorn C&D Landfill |
| | c/o Rodney Schamerhorn | Physical Location: | 10443 Highway 8 |
| | Agent for Service of Process | | |
| | 350 North Fort Road | City, State, Zip: | Leesville, LA 7446 |
| | Leesville, LA 71446 | Parish: | Vernon |

STATEMENT OF COMPLIANCE

| STATEMENT OF COMPLIANCE | Date Completed | Copy Attached? |
|--|----------------|----------------|
| A written report was submitted in accordance with Paragraph XIII of the "Order" portion of the COMPLIANCE ORDER. | | |
| All necessary documents were submitted to the Department in accordance with Paragraph X of the "Order" portion of the COMPLIANCE ORDER. | | |
| All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER. | N/A | N/A |
| All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER. | N/A | N/A |
| All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of: | | |

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

| | |
|--------------------------|---|
| <input type="checkbox"/> | The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7. |
| <input type="checkbox"/> | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (SE-CN-21-00078), 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"/> | <p>In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (SE-CN-21-00078), 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.</p> <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. <p>The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (SE-CN-21-00078) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p> |

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: Ashley Manuel

SETTLEMENT AGREEMENTS

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:I.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

| | | NATURE AND GRAVITY OF THE VIOLATION | | |
|--|----------|-------------------------------------|----------------------------|----------------------------|
| | | MAJOR | MODERATE | MINOR |
| DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY | MAJOR | \$32,500 to \$20,000 | \$20,000 to \$15,000 | \$15,000 to \$11,000 |
| | MODERATE | \$11,000 to \$8,000 | \$8,000 to \$5,000 | \$5,000 to \$3,000 |
| | MINOR | \$3,000 to \$1,500 | \$1,500 to \$500 | \$500 to \$100 |

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions.

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement, however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times [\text{Penalty Event Maximum} - \text{Penalty Event Minimum}])$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

| | |
|---|---|
| Settlement Offers | searchable in <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement |
| Settlement Agreements | <u>Enforcement Division's website</u> specific examples can be provided upon request |
| Penalty Determination Method | <u>LAC 33.I Chapter 7</u> |
| Beneficial Environmental Projects | <u>LAC 33.I Chapter 25</u> <u>FAQs</u> |
| Judicial Interest | <u>provided by the Louisiana State Bar Association</u> |



JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

FEB 07 2022

CERTIFIED MAIL (7018 0360 0001 5039 2687)
RETURN RECEIPT REQUESTED



SCHAMERHORN C/D LANDFILL INC

c/o Rodney Schamerhorn
Agent for Service of Process
350 North Fort Road
Leesville, LA 71446

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. SE-CN-21-00532
AGENCY INTEREST NO. 82479**

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 **SCHAMERHORN C/D LANDFILL INC (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 Ashley Manuel at (225) 219-3794 or Ashley.Manuel@la.gov.

Sincerely,

A handwritten signature in black ink that reads "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/AMM/amm
Alt ID Nos. P-0386-R1; RI-13364
Attachment

c: Schamerhorn C & D Landfill
c/o Chris Schamerhorn
10443 Highway 8
Leesville, LA 71446

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

| | | |
|---|---|---------------------------------|
| IN THE MATTER OF | * | |
| | * | |
| SCHAMERHORN C/D LANDFILL INC | * | ENFORCEMENT TRACKING NO. |
| VERNON PARISH | * | |
| ALT ID NOS. P-0386-R1 & RI-13364 | * | SE-CN-21-00532 |
| | * | |
| | * | AGENCY INTEREST NO. |
| PROCEEDINGS UNDER THE LOUISIANA | * | |
| ENVIRONMENTAL QUALITY ACT, | * | 82479 |
| 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 **SCHAMERHORN C/D LANDFILL INC (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 Type III construction and demolition (C&D) debris and woodwaste landfill, known to the Department as Schamerhorn C&D Landfill-Backhoe and Trucking (facility), located at 10443 Highway 8 in Leesville, Vernon Parish, Louisiana. The facility is a permitted separation facility for metal recyclables and wood waste processing. The metals are separated from the waste stream, stored in the west area of the landfill, and transported to an off-site recycler. The facility is approved to dispose of 3,000 wet tons per week of C&D debris and 2,000 wet tons per week of woodwaste. The facility receives C&D debris and offsite generated woodwaste from all parishes of Louisiana. The facility is currently operating under Solid Waste Standard Permit P-0386-R1. The Respondent applied for a Beneficial Use Plan (BUP) on or about February 14, 2018, to use recycled asphalt shingles for subbase stabilization, parking lots, rural roads, and driveways. The BUP states that recycled asphalt shingles will

be delivered to an onsite recycle area, where pallets and foreign material will be removed. The Department approved the Respondent's request for a BUP on or about April 19, 2018, which expires on April 19, 2023. The Respondent submitted a Waste Tire Generator Notification Form to the Department dated January 29, 2007, which classified the Respondent as a generator of ineligible tires. The Department approved the Waste Tire Generator Form on January 29, 2007, and the facility was assigned alternate identification number RI-13364.

II.

On or about March 11, 2021, the Department issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-21-00078** to the Respondent. **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-21-00078** was delivered to the Respondent via certified mail on or about March 20, 2021. On or about April 21, 2021, the Department received a response from the Respondent dated April 14, 2021. The Respondent did not appeal the action; therefore, **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-21-00078** is a final action, not subject to further review.

III.

On or about June 9, 2021, June 14, 2021, and June 21, 2021, the Department conducted inspections 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 remove materials destined for recycling at least once every ninety (90) days, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirement R-11 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY SE-CN-21-00078**, and LAC 33:VII.901.A. Specifically, during the June 9, 2021 inspection, a representative of the Respondent stated some recyclable materials have been onsite for more than one (1) year.
- B. The Respondent failed to adequately apply interim cover and minimize erosion, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-11 and R-53 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.721.A.2.a.ii.b, and LAC 33:VII.901.A. Specifically, during the June 9, 2021 inspection, erosion was observed at the southern end of the cell. Additionally, the

north-east side of the roadway through the interior of the landfill was not adequately covered and was observed to have several areas of exposed waste. During the June 14, 2021 inspection, the southern end of the cell received cover; however, the areas along the roadways had not received adequate cover. During the June 21, 2021 inspection, exposed waste on areas along the roadways had not been adequately covered.

- C. The Respondent allowed the unauthorized disposal of solid waste, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, the roadways contained asphalt shingles with excessive amounts of plastic material. The Respondent did not remove all foreign material from the recycled asphalt shingles. The Respondent's approved BUP states that foreign material will be removed from the recycled asphalt shingles.
- D. The Respondent failed to include all required information on the incoming waste records, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirements R-11 and R-47 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, LAC 33:VII.719.B.6.a, and LAC 33:VII.901.A. Specifically, during the June 9, 2021 inspection, a review of the incoming waste records revealed the Solid Waste Transporter ID was not included. During the inspection, a representative of the Respondent edited the incoming waste records to include a column for the Solid Waste Transporter ID.
- E. The Respondent stored waste tires for longer than permitted, as specified in Attachment 35 of the approved permit application, in violation of Specific Requirement R-11 of the Standard Permit P-0386-R1, LAC 33:VII.529.A.1, and LAC 33:VII.901.A. Specifically, waste tires were removed on December 17, 2020, March 1, 2021, and June 7, 2021. The time frames between removal dates were seventy-four (74) days and ninety-eight (98) days. The Respondent is required to remove waste tires from the facility every forty-five (45) days.

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 Standard Permit P-0386-R1.

II.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, removing materials destined for recycling at least once every ninety (90) days, in accordance with Standard Permit P-0386-R1. The Respondent shall retain documentation demonstrating proper disposal and submit this documentation to the Enforcement Division within fifteen (15) days of completion.

III.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to adequately apply interim cover and to minimize erosion, as specified in Attachment 35 of the approved permit application. Additionally, the Respondent shall apply adequate cover to the areas of the facility described in Findings of Fact III.B.

IV.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, the unauthorized disposal of regulated solid waste in any area that is not permitted to receive such waste. The Respondent shall immediately begin to remove all plastic material from the recycled asphalt shingles as described in Findings of Fact III.C. The Respondent shall provide evidence demonstrating proper disposal to the Enforcement Division within fifteen (15) days of completion.

V.

To institute procedures, immediately after receipt of this **COMPLIANCE ORDER**, to ensure all waste tires stored at the facility are sent to an authorized waste tire processor using an authorized waste tire transporter every forty-five (45) days, in accordance with Standard Permit P-0386-R1.

VI.

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: Ashley Manuel
Re: Enforcement Tracking No. SE-CN-21-00532
Agency Interest No. 82479

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-21-00532
Agency Interest No. 82479

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 Ashley Manuel at (225) 219-3794 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to

the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

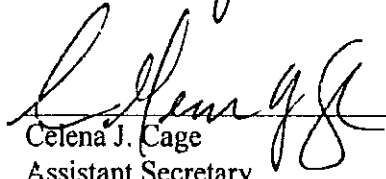
IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 7th day of February, 2022.


Celena J. Cage
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: Ashley Manuel

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-21-00532 | Contact Name | Ashley Manuel |
| Agency Interest (AI) No. | 82479 | Contact Phone No. | (225) 219-3794 |
| Alternate ID Nos. | P-0386-R1; RI-13364 | | |
| Respondent: | SCHAMERHORN C/D LANDFILL INC | Facility Name: | Schamerhorn C&D Landfill |
| | c/o Rodney Schamerhorn | Physical Location: | 10443 Highway 8 |
| | Agent for Service of Process | | |
| | 350 North Fort Road | City, State, Zip: | Leesville, LA 7446 |
| | Leesville, LA 71446 | Parish: | Vernon |

STATEMENT OF COMPLIANCE

| STATEMENT OF COMPLIANCE | Date Completed | Copy Attached? |
|--|----------------|----------------|
| A written report was submitted in accordance with Paragraph VI of the "Order" portion of the COMPLIANCE ORDER. | | |
| All necessary documents were submitted to the Department in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER. | | |
| All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER. | N/A | N/A |
| All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER. | N/A | N/A |
| 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-21-00532), 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"/> | <p>In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (SE-CN-21-00532), 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.</p> <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. <p>The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (SE-CN-21-00532) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p> |

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: Ashley Manuel | | |

SETTLEMENT AGREEMENTS

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

| DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY | NATURE AND GRAVITY OF THE VIOLATION | | |
|--|-------------------------------------|----------------------------|----------------------------|
| | MAJOR | MODERATE | MINOR |
| | MAJOR | | |
| | | | |
| | \$32,500 to \$20,000 | \$20,000 to \$15,000 | \$15,000 to \$11,000 |
| | MODERATE | | |
| | | | |
| | \$11,000 to \$8,000 | \$8,000 to \$5,000 | \$5,000 to \$3,000 |
| | MINOR | | |
| | | | |
| | \$3,000 to \$1,500 | \$1,500 to \$500 | \$500 to \$100 |

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times (\text{Penalty Event Maximum} - \text{Penalty Event Minimum}))$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

| | |
|---|--|
| Settlement Offers | searchable in EDMS using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement |
| Settlement Agreements | Enforcement Division's website specific examples can be provided upon request |
| Penalty Determination Method | LAC 33:I Chapter 7 |
| Beneficial Environmental Projects | LAC 33:I Chapter 25 |
| | FAQs |
| Judicial Interest..... | provided by the Louisiana State Bar Association |



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