

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TOMMASI DISPOSAL, INC.

AI # 30781

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

* **Settlement Tracking No.**
* **SA-MM-24-0074**
*
* **Enforcement Tracking Nos.**
* **MM-CN-21-00393**
* **SE-PP-21-00662**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Tommasi Disposal, 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 & Demolition (C&D) landfill located in Lake Charles, Calcasieu Parish, Louisiana (“the Facility”).

II

On July 20, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-21-00393 (Exhibit 1).

On March 24, 2022, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. SE-PP-21-00662 (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 TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Two Thousand Two Hundred Eighty-Nine and 11/100 Dollars (\$2,289.11) 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), the Consolidated Compliance Order & Notice of Potential Penalty, 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 Calcasieu 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. The Respondent shall provide its tax identification number when submitting payment. 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.

TOMMASI DISPOSAL, INC.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: _____
Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

JUL 20 2021

EXHIBIT

1

CERTIFIED MAIL (7018 0360 0001 5039 2595)
RETURN RECEIPT REQUESTED

TOMMASI DISPOSAL, INC.
c/o Gregory J. Klumpp
Agent for Service of Process
901 Lakeshore Drive, Suite 804
Lake Charles, LA 70602

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-21-00393
AGENCY INTEREST NO. 30781**

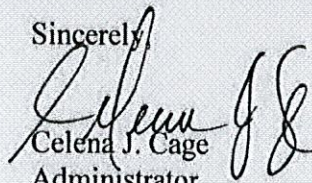
Dear Sir:

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 **TOMMASI DISPOSAL, 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,


Celena J. Cage
Administrator
Enforcement Division

CJC/AMM/amm
Alt ID No. P-0377-R2
Attachment

c: Tommasi Disposal, Inc.
c/o Ricky Tommasi
7124 Corbina Road
Lake Charles, LA 70607

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

**TOMMASI DISPOSAL, INC.
CALCASIEU PARISH
ALT ID NO. P-0377-R2**

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

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ENFORCEMENT TRACKING NO.

MM-CN-21-00393

AGENCY INTEREST NO.

30781

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **TOMMASI DISPOSAL, 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 Tommasi Landfill (the facility), a Type III Construction & Demolition (C&D) landfill, located at 7124 Corbina Road in Lake Charles, Calcasieu Parish, Louisiana. The facility is permitted under Solid Waste Standard Permit P-0377-R2.

II.

On or about August 27, 2020, Hurricane Laura made landfall as a Category 4 storm causing adverse impact and widespread damage to the State of Louisiana. A Declaration of Emergency and Administrative Order (DEAO) was issued on August 25, 2020. The Ninth (9th) Amended DEAO was issued on March 29, 2021, and expired on April 28, 2021. The Tenth (10th) Amended DEAO was issued on April 28, 2021, and expired on May 28, 2021. The Eleventh (11th) Amended DEAO was issued on May 28, 2021, and expired on June 28, 2021. The Twelfth (12th) Amended DEAO was issued on June 28,

2021, with an expiration date of July 28, 2021. In addition to C&D debris and woodwaste, the DEAO allows Type III landfills located in Calcasieu Parish and Cameron Parish to dispose of furniture, carpet, and mattresses generated as a result of Hurricane Laura.

III.

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

IV.

On or about April 12, 2021, an inspection was conducted to determine compliance with the Act and supporting regulations. A Field Notice of Deficiency (FNOD) was hand delivered to the Respondent on or about April 12, 2021, for areas of concern noted during the inspection. The Department received a response to the FNOD from the Respondent dated May 4, 2021. The Respondent stated in the response that during the April 12, 2021 inspection, a monitor called in sick, causing the facility not to have the required two (2) monitors per working face. Per the May 4, 2021 written response, the Respondent implemented the following corrective actions: the Respondent indicated that twelve (12) inches of cover is now being applied to address the exposed waste and leachate issues; all unacceptable waste observed during the April 12, 2021 inspection had been picked up and placed in an 8-yard garbage container; all leachate areas have been capped with additional dirt; the sulphur odor has been addressed; all waste tires have been covered; the west slope located in working face #1 has been covered (however, additional scattered debris still needs to be removed); debris has been picked up across the entire facility; and the facility will be closed during rainy days due to the difficulty to haul cover dirt in the mud.

V.

The Department conducted numerous inspections between April 12, 2021, and May 17, 2021, at the above referenced facility to determine the degree of compliance with the Act and the supporting regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to control leachate generation at the facility and minimize erosion, as specified in Attachment 32 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.A.2.a.ii(b) and LAC 33:VII.901.A. Specifically, during the April 12, 2021

inspection, leachate seeps were observed in working face #2. Additionally, during the inspections conducted on or about April 19, 2021, and April 26, 2021, leachate seeps were observed in the inactive area of the landfill located at the northwest end. During the May 3, 2021 inspection, the leachate seeps observed during the April 26, 2021 inspection were covered with dirt.

- B. The Respondent failed to adequately apply interim cover to minimize blowing paper and litter, as specified in Attachment 32 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.A.2.a.iv, and LAC 33:VII.901.A. Specifically, during inspections conducted on or about April 12, 2021, April 19, 2021, April 26, 2021, May 3, 2021, and May 10, 2021, excessive litter caused by inadequate cover was observed throughout the facility.
- C. 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 32 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.A.2.a.v, and LAC 33:VII.901.A. Specifically, during the April 12, 2021, and April 19, 2021 inspections, sulphur odors were noted onsite. Odors were not present during subsequent inspections performed at the facility.
- D. The Respondent failed to apply cover every seven (7) days, in accordance with Section 1.c.iii of the Hurricane Laura-Eleventh (11th) Amended DEAO, in violation of La. R.S. 30:2033.D.1, LAC 33:I.6901.A.2, and LAC 33:I.6925.A. Specifically, during the April 12, 2021 inspection, a review of the Respondent's cover logs indicated that cover had been applied to both working faces on April 1, 2021. Cover was applied to working face #2 on April 9, 2021, which was eight (8) days later. Additionally, during the April 12, 2021, April 19, 2021, April 26, 2021, and May 10, 2021 inspections, exposed waste due to inadequate cover was observed in the working faces.
- E. The Respondent failed to have a minimum of two (2) independent monitors at each working face during all hours of operation to ensure that unacceptable wastes are not disposed of in the landfill, in accordance with Section 1.c.ii of the Hurricane Laura-Eleventh (11th) Amended DEAO, in violation of La. R.S. 30:2033.D.1, LAC

33:I.6901.A.2, and LAC 33:I.6925.A. Specifically, the Respondent is approved to utilize two (2) working faces at the facility. During an inspection conducted on or about April 12, 2021, one (1) monitor was at working face #1.

- F. 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 Attachment 32 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.A.2.b and LAC 33:VII.901.A. Specifically, a review of all cover logs revealed:
1. Cover logs from February 23, 2021 to May 14, 2021 revealed only eight (8) to ten (10) inches of cover were applied from February 23, 2021 to April 9, 2021. Cover logs from April 12, 2021 to May 14, 2021, revealed the Respondent applied twelve (12) inches of cover to the working faces.
 2. The Respondent used ditch clean out from the city, parish, and state as cover material on March 8, 2021, March 9, 2021, March 17, 2021, March 18, 2021, March 25, 2021, April 8, 2021, April 20, 2021, April 21, 2021, April 22, 2021, April 28, 2021, and May 8, 2021. During the May 10, 2021 inspection, a representative of the Respondent stated the Respondent has used wet ditch cleanout as cover for years. The Respondent is not authorized to use the wet ditch cleanout as cover.
- G. The Respondent failed to prevent the disposal of residential waste, industrial waste, commercial waste, and/or putrescible waste, as specified in Attachment 35 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.C.1.f, and LAC 33:VII.901.A. Specifically, during inspections conducted on or about April 12, 2021, April 19, 2021, April 26, 2021, May 3, 2021, and May 10, 2021, unauthorized waste, which consisted of but was not limited to a garden hose, aerosol can, household waste, cardboard boxes, a water based duct sealant, a tool box, laundry detergent, a paint can, black culverts, fire ant killer, a trash bag of laboratory vials and caps, an A/C Freon tank, a tire boat bumper, a shoe, an extension cord, medicine containers, two (2) 10-foot utility poles, a stuffed animal, an electronic device, an A/C fan, an air compressor, a 55-gallon poly drum, weed eater engine, clothing, multiple 5-gallon buckets, and engine oil, was observed in the

working faces and the inactive area of the landfill. During the April 26, 2021, and May 10, 2021 inspections, monitors were observed to be removing unauthorized waste.

- H. 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, during inspections conducted on or about April 26, 2021, May 3, 2021, and May 10, 2021, the Department reviewed the Respondent's cover logs. According to the Respondent's cover logs, the Respondent used ditch clean out from the city, parish, and state as cover material on March 8, 2021, March 9, 2021, March 17, 2021, March 18, 2021, March 25, 2021, April 8, 2021, April 20, 2021, April 21, 2021, April 22, 2021, April 28, 2021, and May 8, 2021. During the May 10, 2021 inspection, a representative of the Respondent stated the Respondent has used wet ditch cleanout as cover for years. The Respondent has dumped wet ditch clean out near the middle of the landfill in an area that is covered and no longer active so the clean out can dry prior to being utilized for cover. The unauthorized use of wet ditch cleanout for cover is considered disposal of solid waste.
- I. 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, in violation of LAC 33:VII.10519.I. Specifically, during the April 12, 2021 inspection, approximately forty (40) to fifty (50) waste tires were observed onsite, without cover. During the inspections conducted on or about April 26, 2021, and May 3, 2021, the waste tires were adequately covered.
- J. The Respondent failed to maintain all-weather roads that meet the demands of the facility and are designed to avoid congestion, sharp turns, or other hazards, in accordance with Attachment 35 of the approved permit application, in violation of LAC 33:VII.719.A.2, LAC 33:VII.901.A, and Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2. Specifically, during an inspection conducted on or about April 12, 2021, a representative of the Respondent stated working face #1 is unusable after inclement weather due to the road conditions. After inclement weather, the Respondent has to utilize working face #2 until the roads are dry. In a response dated May 4, 2021, the Respondent stated the landfill will be closed during rainy days because of the difficulty to haul cover dirt in the mud.

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 and (Waste Tires) Regulations, the Office of the Secretary Regulations, the DEAO, and Solid Waste Permit P-0377-R2.

II.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure sufficient interim cover is applied to the landfill to control leachate generation, to minimize erosion, to minimum blowing paper and litter, and to reduce noxious odors by minimizing outward movement of methane and other gases, in accordance with Attachment 32 of the approved permit application and LAC 33:VII.721.A.2.a.

III.

To remove, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all litter from the facility.

IV.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure cover is applied every seven (7) days, in accordance with Section 1.c.iii of the Hurricane Laura-Twelfth (12th) Amended DEAO.

V.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure two (2) independent monitors are at each working face during all hours of operation, in accordance with Section 1.c.ii of the Hurricane Laura-Twelfth (12th) Amended DEAO.

VI.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to prevent the disposal of all unacceptable wastes, in accordance with Attachment 35 of the approved permit application and LAC 33:VII.721.C.1.f.

VII.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, disposing or allowing the disposal of any regulated solid waste in areas of the landfill that are not permitted for disposal.

VIII.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to maintain all-weather roads that meet the demands of the facility, in accordance with Attachment 35 of the approved permit application and LAC 33:VII.719.A.2.

IX.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order. 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. MM-CN-21-00393
Agency Interest No. 30781

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

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

II.

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

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-21-00393
Agency Interest No. 30781

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 20th day of July, 2021.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: 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.	MM-CN-21-00393	Contact Name	Ashley Manuel
Agency Interest (AI) No.	30781	Contact Phone No.	(225) 219-3794
Alternate ID No.	P-0377-R2		
Respondent:	TOMMASI DISPOSAL, INC.	Facility Name:	Tommasi Disposal
	c/o Gregory J. Klumpp	Physical Location:	7124 Corbina Road
	Agent for Service of Process		
	901 Lakeshore Drive, Suite 804	City, State, Zip:	Lafayette, LA 70607
	Lake Charles, LA 70602	Parish:	Calcasieu

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IX of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department in accordance with Paragraph of the "Order" portion of the COMPLIANCE ORDER.	N/A	N/A
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 33:1 Subpart 1 Chapter 7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-CN-21-00393), 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 (MM-CN-21-00393), 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 (MM-CN-21-00393) 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

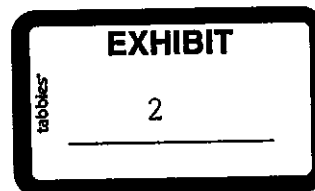
JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 24 2022



CERTIFIED MAIL (7018 0360 0001 5039 2847)
RETURN RECEIPT REQUESTED

TOMMASI DISPOSAL, INC.
c/o Gregory J. Klumpp
Agent for Service of Process
901 Lakeshore Drive, Suite 804
Lake Charles, LA 70602

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. SE-PP-21-00662
AGENCY INTEREST NO. 30781**

Dear Sir:

The Department conducted numerous inspections between June 23, 2021, and November 8, 2021 of **TOMMASI LANDFILL**, a Type III Construction & Demolition (C&D) landfill, owned and/or operated by **TOMMASI DISPOSAL, INC. (RESPONDENT)**, to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste Regulations. The facility is located at 7124 Corbina Road in Lake Charles, Calcasieu Parish, Louisiana. The Respondent operates the facility under Solid Waste Standard Permit P-0377-R2.

On or about July 20, 2021, the Department issued **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-21-00393** to the Respondent. **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-21-00393** was received by the Respondent via certified mail on July 29, 2021. On or about August 16, 2021, September 21, 2021, and October 7, 2021, a representative of the Respondent submitted responses to **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-21-00393**. The Respondent did not appeal **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-21-00393**; therefore, it is a final action.

On or about September 13, 2021, the Department issued a Warning Letter to the Respondent as a result of the June 23, 2021 inspection. On or about September 24, 2021, a representative of the Respondent submitted a response to the Warning Letter.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to control leachate generation at the facility and minimize erosion, as specified in Attachment 32 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.A.2.a.ii(b) and LAC 33:VII.901.A. Specifically, during the June 23, 2021 inspection, exposed waste was observed in washouts along slopes of Phase 1/Phase 2. During the inspection, a representative of the Respondent stated the washouts would be covered within two (2) weeks. During an assessment conducted on or about July 6, 2021, the cover logs indicated approximately 420 yards of dirt were used to cover Working Face 1 and 740 yards of shaker dirt were used to address the leachate, washouts, and cover any exposed waste. In a response to the Warning Letter dated September 24, 2021, a representative of the Respondent stated weekly cover thickness has increased to assist with the exposed debris and litter. This violation was not noted during the November 8, 2021 inspection.
- B. 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 Attachment 32 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.A.2.b and LAC 33:VII.901.A. Specifically, during the June 23, 2021 inspection, a review of the cover logs revealed the Respondent used city ditch cleanout as cover material on June 18, 2021. Additionally, the Respondent used concrete dirt as cover material on April 22, 2021, April 23, 2021, June 3, 2021, June 4, 2021, and June 11, 2021, and shaker dirt as cover material on June 18, 2021. The Respondent is not authorized to use the city ditch cleanout, concrete dirt, or shaker dirt as cover. In a response to the Warning Letter dated September 24, 2021, a representative of the Respondent stated the Respondent will verify that interim cover is comprised of a minimum of twelve (12) inches of silty clay and is placed every thirty (30) days. The response also indicated the placement of the cover will be documented on the cover logs. In an additional response to the Warning Letter dated October 7, 2021, a representative of the Respondent submitted a copy of their most recent cover logs, which indicate the depth and cover material of the applied cover.
- C. The Respondent failed to maintain a cover log with the depth of cover material applied on-site, in violation of LAC 33:VII.721.A.2.d.v. Specifically, a review of the Respondent's cover logs revealed cover logs from May 3, 2021, through May 27, 2021, and June 11, 2021, through June 18, 2021, did not indicate the depth of cover material that was applied. In a response to the Warning Letter dated September 24, 2021, a representative of the Respondent stated they will ensure the cover logs will include the required information, including the depth of the cover material. In an additional response to the Warning Letter dated October 7, 2021, a representative of the Respondent submitted a copy of their most recent cover logs which indicate the depth of the cover material applied.
- D. The Respondent failed to prevent the disposal of residential waste, industrial waste, commercial waste, and/or putrescible waste, as specified in Attachment 35 of the approved permit application, in violation of Conditions 1 and 2 of Solid Waste Standard

Permit P-0377-R2, LAC 33:VII.721.C.1.f, and LAC 33:VII.901.A. Specifically, during the June 23, 2021 inspection, unacceptable waste, which consisted of but was not limited to, clothing, paint buckets, plastics, small kitchen appliances, compressed gas cylinders, trash cans, and household garbage, was observed in the working face in the disposal area of the landfill. In a response to the Warning Letter dated September 24, 2021, a representative of the Respondent stated procedures have been implemented to ensure that unacceptable waste are not disposed of at the facility. Meetings will be conducted with employees to train employees to refuse loads that arrive with residential, commercial, or putrescible wastes. Additionally, the response indicated if unacceptable waste is left onsite, it will be loaded into a covered container and will be properly disposed of offsite. During a follow up assessment conducted on or about December 14, 2021, the unacceptable material was being removed and placed back in the dump truck.

- E. The Respondent failed to prevent the disposal of residential waste, industrial waste, commercial waste, and/or putrescible waste, as specified in Attachment 35 of the approved permit application, in violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-21-00393**, Conditions 1 and 2 of Solid Waste Standard Permit P-0377-R2, LAC 33:VII.721.C.1.f, and LAC 33:VII.901.A. During the October 12, 2021 inspection, unacceptable waste, which consisted of but was not limited to, clothes, toys, a mattress, and a couch cushion, was observed in the previous working face of the landfill. During the October 19, 2021 inspection, unacceptable waste, which consisted of but was not limited to, carpet and a hand sprayer, were observed in the working face. The unacceptable material was removed by a representative of the Respondent during the October 19, 2021 inspection. During the October 26, 2021 inspection, unacceptable waste, which consisted of but was not limited to, foam, food waste, carpet, buckets, plastic bags, and cardboard in large amounts, was observed in the working face. During the November 8, 2021 inspection, unacceptable waste, which consisted of but was not limited to, buckets, ice chests, carpet, and cardboard, was observed in the working face. The unacceptable material was being removed during the November 8, 2021 inspection. In a response to the Warning Letter dated September 24, 2021, a representative of the Respondent stated procedures have been implemented to ensure that unacceptable waste are not disposed of at the facility. Meetings will be conducted with employees to train employees to refuse loads that arrive with residential, commercial, or putrescible wastes. Additionally, the response indicated if unacceptable waste is left onsite, it will be loaded into a covered container and will be properly disposed of offsite. During a follow up assessment conducted on or about December 14, 2021, unacceptable material was being removed and placed back in the dump truck.
- F. The Respondent allowed the unauthorized processing and disposal of solid waste, in violation of La. R.S. 30:2155, LAC 33:VII.315.C, and LAC 33:VII.901.A. Specifically, a review of the Respondent's cover log revealed the Respondent used ditch clean out from the city, on June 18, 2021 as cover material. Additionally, the Respondent used concrete dirt as cover material on April 22, 2021, April 23, 2021, June 3, 2021, June 4, 2021, and June 11, 2021, and shaker dirt on June 18, 2021, as cover material. The unauthorized use of wet ditch cleanout, concrete dirt, and shaker dirt for cover is considered disposal of solid waste. In a response to the Warning Letter dated

TOMMASI DISPOSAL, INC.

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September 24, 2021, a representative of the Respondent stated the Respondent will verify that interim cover is comprised of a minimum of twelve (12) inches of silty clay and is placed every thirty (30) days. The response also indicated the placement of the cover will be documented on the cover logs. In an additional response to the Warning Letter dated October 7, 2021, a representative of the Respondent submitted a copy of their most recent cover logs, which indicate the depth and cover material of the applied cover.

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.

Prior to the issuance of any additional appropriate enforcement action, 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 or Ashley.Manuel@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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 in order 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 violations 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 this 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.

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

The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. 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.

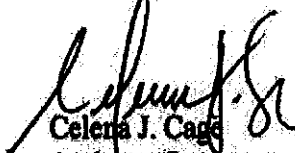
TOMMASI DISPOSAL, INC.

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To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Celena J. Cage
Assistant Secretary

Office of Environmental Compliance

CJC/AMM/amm

Alt ID No. P-0377-R2

c: Tommasi Disposal, Inc.
c/o Ricky Tommasi
7124 Corbina Road
Lake Charles, LA 70607

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY

REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	SE-PP-21-00662	Contact Name	Ashley Manuel
Agency Interest (AI) No.	30781	Contact Phone No.	(225) 219-3794
Alternate ID No.	P-0377-R2		
Respondent:	TOMMASI DISPOSAL, INC.	Facility Name:	Tommasi Disposal
	c/o Gregory J. Klumpp	Physical Location:	7124 Corbina Road
	Agent for Service of Process		
	901 Lakeshore Drive, Suite 804	City, State, Zip:	Lafayette, LA 70607
	Lake Charles, LA 70602	Parish:	Calcasieu

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (SE-PP-21-00662), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
_____	The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY (SE-PP-21-00662).
_____	<p>In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (SE-PP-21-00662), 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-PP-21-00662) 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