

**19<sup>TH</sup> JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA**

**16-MAR-2017**

**TO: CORINNE VAN DALEN  
TULANE ENVIRO LAW CLINIC  
6329 FRERET ST STE 130  
NEW ORLEANS, LA 70118-6231**

**OAKVILLE COMM ACTION GROUP ETAL VS LA DEQ**

**CASE NUMBER: C643930**

**JUDGE: TIMOTHY E KELLEY**

**DIVISION: SECTION 22**

**YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION FOR THE  
AFOREMENTIONED CASE: CONSENT JUDGMENT SIGNED 3/16/17**

**PAULA DENNIS  
JUDICIAL ASSISTANT TO JUDGE  
TIMOTHY E KELLEY**

**NOTIFIED:**

NINETEENTH JUDICIAL DISTRICT COURT  
FOR THE PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

OAKVILLE COMMUNITY ACTION	*	SUIT NO. 643930
GROUP, LOUISIANA	*	
ENVIRONMENTAL ACTION NETWORK,	*	DIVISION F
and GLORIA MAYFIELD	*	SECTION 22
<i>Petitioners,</i>	*	JUDGE Timothy Kelley
v.	*	
LOUISIANA DEPARTMENT OF	*	
ENVIRONMENTAL QUALITY	*	
<i>Defendant.</i>	*	

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**CONSENT JUDGMENT**

WHEREAS, on November 18, 2015, Petitioners Oakville Community Action Group, Louisiana Environmental Action Network, and Gloria Mayfield filed a petition for judicial review of the Louisiana Department of Environmental Quality's ("LDEQ") final permit decision granting the Landfill Permit (as defined below) to Riverside Recycling & Disposal, LLC and Industrial Pipe, Inc. ("Intervenors") for the Industrial Pipe Landfill adjacent to the Oakville community.

WHEREAS, Petitioners, Intervenors, and LDEQ ("the Parties") wish to settle this case without further litigation.

WHEREAS, the Parties' agreement would create a 300-foot Buffer Area near the Oakville community and allow Intervenors to continue to fill that portion of the landfill located outside of the Buffer Area pursuant to the terms of the Modified Permit (as defined below), which the Parties contemplate LDEQ will issue. The Parties contemplate that both the application for the Modified Permit and the Modified Permit will contain only those changes that are necessary to implement this Consent Judgment.

WHEREAS, the Parties understand that LDEQ cannot make a final decision about the Modified Permit before complying with its legal duties under the Louisiana Constitution and the Louisiana Environmental Quality Act. Accordingly, this Consent Judgment provides for a stay of this case while these administrative proceedings are ongoing. If LDEQ issues the Modified Permit as contemplated by the Parties, the Consent Judgment provides for dismissal of this litigation. If LDEQ does not issue the Modified Permit as contemplated by the Parties, the Consent Judgment provides that the stay may be lifted for resolution of this case on the merits.

EBR3973174

WHEREAS, the Parties agree that this Consent Judgment is a fair, adequate and equitable resolution of the claims in this matter.

NOW THEREFORE, and upon the consent of the Parties, it is hereby ORDERED, ADJUDGED, AND DECREED that:

**Jurisdiction and Nature of Judgment**

1. This Court has jurisdiction over this case and the Parties and has authority to order the relief contained in this Consent Judgment.
2. The Court finds that the Parties negotiated this Consent Judgment in good faith and that it is fair, reasonable, and in the public interest.

**Definitions**

3. "Petitioners" are Oakville Community Action Group, Louisiana Environmental Action Network, and Gloria Mayfield.
4. "Intervenors" are Riverside Recycling & Disposal, LLC and Industrial Pipe, Inc.
5. "LDEQ" is the Louisiana Department of Environmental Quality.
6. The "Parties" are Petitioners, Intervenors, and LDEQ.
7. The "Buffer Area" is the area east of the Parish levee that is within 300 feet of any existing residential lot in the Oakville Subdivision, the existing playground and ballfield in Oakville, and the wetlands/timberland west of the ballfield up to the Parish levee.
8. The "Landfill Permit" is Solid Waste Standard Permit Renewal No. P-0367R1 that LDEQ issued to Riverside Recycling & Disposal, LLC and Industrial Pipe, Inc. for a Type III Construction & Demolition Debris and Woodwaste Landfill located at 11266 Highway 23 in Plaquemines Parish.
9. The "Modified Permit" includes the terms of the Landfill Permit with the modifications, listed below, that the parties jointly anticipate LDEQ will make. The term "Modified Permit" is limited to a modified permit that implements this Consent Judgment and does not, except as provided in this Consent Judgment, expand operations at the Industrial Pipe Landfill from those authorized by the Landfill Permit or provide for acceptance of additional types of waste. The "Modified Permit" shall:
  - a. Provide for a 15 year permit term from the date of issuance;
  - b. Expand the Type III permitted footprint of the landfill to include the area that is currently permitted as a Type III Separation Facility;

- c. Allow the area of the currently permitted Type III landfill (not including the Buffer Area) that begins at the Parish levee and proceeds to the west, and the area that is currently permitted as a Type III Separation Facility, to be raised to a height of 65 feet National Geodetic Vertical Datum;
- d. Prohibit the placing, storage, processing, and disposal of waste in the Buffer Area, whether during closure or otherwise;
- e. Require Intervenors to close the Buffer Area as approved by LDEQ under LAC 33:VII.721.D within twelve months of issuance of the Modified Permit unless it is necessary to extend this 12-month period due to a Force Majeure (defined consistent with ¶ 10, below);
- f. Prohibit storage of wood waste in the Buffer Area; and
- g. Prohibit storage of cover material in the Buffer Area after closure of the Buffer Area and prohibit such storage during closure of the Buffer Area except as reasonably necessary to facilitate closure of the Buffer Area.

10. “Force Majeure” is an event that causes a delay in a Party’s performance beyond the control of the relevant Party, despite timely and good faith efforts to plan and achieve timely performance and despite reasonably foreseeable events. Force Majeure can only justify an extension of the deadline for performance proportional to the delay that the Force Majeure caused.

#### **Obligations of Petitioners and Intervenors**

11. Intervenors shall submit an application to LDEQ for the Modified Permit. Intervenors’ application shall request a modification that includes all of the terms set forth in ¶ 9(a)-(g).

12. Neither Petitioners nor Intervenors—either on their own behalf or through counsel—shall object administratively or in Court to LDEQ’s issuance of the Modified Permit, as defined in ¶ 9 (including subparagraphs (a)-(g)), above, and Petitioners shall not otherwise seek to block issuance of the Modified Permit.

13. Following entry of this Consent Judgment, Intervenors shall not place, store, stockpile, process, or dispose of any waste in the Buffer Area, including without limitation wood waste.

14. Following entry of this Consent Judgment, Intervenors shall not store or stockpile any cover material in the Buffer Area (as defined above) except as reasonably necessary to facilitate the closure of the Buffer Area.

15. Following issuance of the Modified Permit, Intervenors shall comply with the requirements and prohibitions set forth in ¶ 9(d)-(g), above.

16. If the LDEQ denies Intervenor's application for the Modified Permit, Intervenor and Petitioners shall have no obligations under this Consent Judgment except that ¶ 19(a) shall continue to be binding upon the Parties, and any party may move to lift the stay provided by ¶ 17, below.

### Stay and Dismissal

17. This case is stayed pending LDEQ's final action on the Modified Permit. During the stay, this Court retains authority to implement and enforce the Consent Judgment. This Court may resolve any dispute between the parties about whether a permit modification qualifies as the Modified Permit pursuant to the Court's authority to implement and enforce this Consent Judgment notwithstanding the stay.

18. If LDEQ fails to issue the Modified Permit (including all of the terms set forth in ¶ 9(a)-(g)) within 12 months of Intervenor's application for such Modified Permit, any Party may move this Court to lift the stay provided for by ¶ 17, above.

19. If this Court lifts the stay pursuant to either ¶ 16 or ¶ 18, above:

- a. The Parties agree, and this Court finds, that the Petitioners' claims shall not be moot with respect to any challenged permit terms that remain in the Landfill Permit, regardless of whether LDEQ promulgates intervening permit modifications;
- b. The Parties shall no longer be bound by ¶¶ 11-15, above; and
- c. This Court contemplates that it will proceed to resolve this case pursuant to its authority under La. R.S. 30:2050.21 and La. R.S. 49:964.

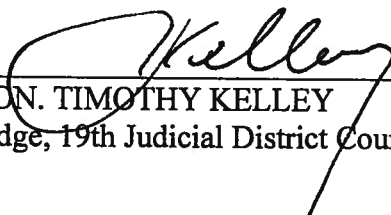
20. Upon issuance of the Modified Permit (including all of the terms set forth in ¶ 9(a)-(g)), the Parties shall jointly move this Court to dismiss this case with prejudice, with the Court retaining jurisdiction to implement and enforce the Consent Judgment.

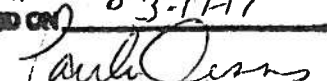
21. Nothing contained in this Consent Judgment prevents Intervenor from seeking, Petitioners from opposing, or Defendant from granting or denying, a renewal of the Modified Permit after its expiration in 15 years.

22. Each Party shall bear its own costs of this litigation.

RECORDED on this 16 day of March, 2017 by:

FILED  
EAST BATON ROUGE PARISH, LA.  
2017 MAR 13 PM 3:55  
DEPUTY CLERK OF COURT

  
HON. TIMOTHY KELLEY  
Judge, 19th Judicial District Court

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF THE WRITTEN REASONS FOR JUDGMENT / JUDGMENT ORDER / WAS MAILED BY ME, WITH SUFFICIENT POSTAGE AFFIXED TO Miles Clements, Christy Pittell, Corrie VanDalen, Courtney Lindell.  
DONE AND SIGNED ON 3-17-17  
  
DEPUTY CLERK OF COURT

**SO AGREED:**

For Petitioners:

Oakville Community Action Group

Gloria Mayfield

By: Allen Green  
Allen Green, President

Gloria Mayfield  
Gloria Mayfield

Date: 3-8-17

Date: 03/08/17

Louisiana Environmental Action Network

By: \_\_\_\_\_  
Marylee Orr, Executive Director

Date: \_\_\_\_\_

Approved as to form:

Anjana Turner

Anjana Turner  
Student Attorney  
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On behalf of Gloria Mayfield

Corinne Van Dalen

Corinne Van Dalen, SBN 21175  
Adam Babich, SBN 27177  
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On behalf Oakville Community Action Group,  
Louisiana Environmental Action Network, and  
Gloria Mayfield and Supervising Attorney for  
Anjana Turner

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EAST BATON ROUGE PARISH, LA  
2017 MAR 13 PM 3:35  
DEPUTY CLERK OF COURT

For Defendant:

Louisiana Department of Environmental Quality

\_\_\_\_\_  
Courtney J. Burdette, Esq.  
Legal Division  
P.O. Box 4302  
Baton Rouge, Louisiana 70821  
Counsel for Louisiana Department of  
Environmental Quality

**SO AGREED:**

For Petitioners:

Oakville Community Action Group

Gloria Mayfield

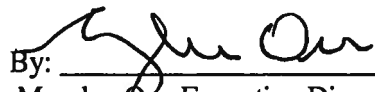
By: \_\_\_\_\_  
Allen Green, President

\_\_\_\_\_  
Gloria Mayfield

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Louisiana Environmental Action Network

By:   
Marylee Orr, Executive Director

Date: 3/8/17

Approved as to form:

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*On behalf of Gloria Mayfield*

\_\_\_\_\_  
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*On behalf Oakville Community Action Group,  
Louisiana Environmental Action Network, and  
Gloria Mayfield and Supervising Attorney for  
Anjana Turner*

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For Defendant:

Louisiana Department of Environmental Quality

\_\_\_\_\_  
Courtney J. Burdette, Esq.  
Legal Division  
P.O. Box 4302  
Baton Rouge, Louisiana 70821  
Counsel for Louisiana Department of Environmental Quality

**SO AGREED:**

For Petitioners:

Oakville Community Action Group

Gloria Mayfield

By: \_\_\_\_\_  
Allen Green, President

\_\_\_\_\_  
Gloria Mayfield

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Louisiana Environmental Action  
Network

By: \_\_\_\_\_  
Marylee Orr, Executive Director

Date: \_\_\_\_\_

Approved as to form:

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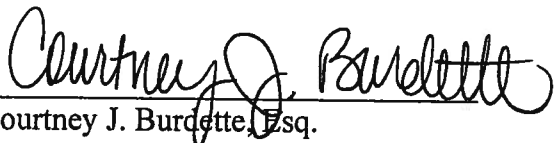
*On behalf of Gloria Mayfield*

*On behalf Oakville Community Action Group,  
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Gloria Mayfield and Supervising Attorney for  
Anjana Turner*

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For Defendant:

Louisiana Department of Environmental Quality

  
\_\_\_\_\_  
Courtney J. Burdette, Esq.

Legal Division  
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Baton Rouge, Louisiana 70821  
Counsel for Louisiana Department of  
Environmental Quality



For Intervenor:

Riverside Recycling & Disposal LLC

By: [Signature] 3/8/2017  
Date

Hans F. Christensen V.P.  
Print Name Title

Industrial Pipe, Inc.

By: Kenneth S Stewart 3/9/17  
Date

Kenneth F Stewart President  
Print Name Title

Approved as to form:

[Signature]

Miles P. Clements, Esq.  
Fritel L.L.C.  
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Suite 3700  
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Counsel for Industrial Pipe, Inc.  
and Riverside Recycling

FILED  
EAST BAYON ROUGE PARISH, LA

2017 MAR 13 PM 3:56

[Signature]  
CLERK OF COURT

CERTIFICATE OF SERVICE

I hereby certify that I have on this 9<sup>th</sup> day of March, 2017, served a copy of the  
going pleading on all counsel of record in this matter by email, fax and U.S. Mail, properly  
addressed and first class postage prepaid.

[Signature]  
Corinne Van Dalen