
SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between Waste Management of Louisiana, L.L.C., a Delaware limited liability company, (“WMLA”) and the following nonprofit corporations: MQVN Community Development Corporation; Vietnamese American Young Leaders Association of New Orleans; Louisiana Environmental Action Network; and Sierra Club (collectively referred to as “Plaintiffs”). WMLA and Plaintiffs are referred to collectively herein as the “Parties.”

Recitals

WHEREAS, WMLA received authorization from the Louisiana Department of Environmental Quality to construct and operate a landfill for the disposal of certain debris generated as a result of Hurricane Katrina on property located at 16600 Chef Menteur Highway, New Orleans, Louisiana and more specifically described and identified in Exhibit “A” attached hereto and incorporated herein (hereafter referred to as the “Chef Menteur Landfill”);

WHEREAS, WMLA did dispose of certain debris generated as a result of Hurricane Katrina at the Chef Menteur Landfill from approximately April 2006 through August 15, 2006;

WHEREAS, WMLA is currently leasing the Chef Menteur Landfill as lessee and has an option to purchase the entirety of the Chef Menteur Landfill from the current owner upon the fulfillment of certain conditions;

WHEREAS, Plaintiffs MQVN Community Development Corporation, Vietnamese American Young Leaders Association of New Orleans, Louisiana Environmental Action Network, and Sierra Club filed a Complaint on February 28, 2012, in the matter captioned, “*MQVN Community Development Corporation, Vietnamese American Young Leaders*

Association of New Orleans, Louisiana Environmental Action Network, and Sierra Club v. Waste Management of Louisiana, L.L.C.,” Case No.: 2:12-cv-00546-JCZ-ALC, United States District Court for the Eastern District of Louisiana (the “Citizen Suit”), alleging that WMLA is liable for violations of the Resource Conservation and Recovery Act, 42 U.S.C. § 6945(a), at the Chef Menteur Landfill;

WHEREAS, WMLA filed an Answer on May 21, 2012, denying liability;

WHEREAS, all Parties agree to settle the Citizen Suit and all claims asserted by Plaintiffs in the Citizen Suit, without any admission of liability and without further litigation, for and in consideration of the covenants, terms and conditions contained herein; and

WHEREAS, all Parties represent and warrant that they have received all approvals necessary to enter into this Settlement Agreement and have authorized the person signing the Settlement Agreement on their behalf to commit the respective Parties to all of its terms and conditions. Each of the signatories to this Settlement Agreement represents and warrants that he or she has full power and authority to bind and commit to this Settlement Agreement the Party upon whose behalf he or she is executing this Agreement.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. This Settlement Agreement is binding on all of the Parties: MQVN Community Development Corporation; Vietnamese American Young Leaders Association of New Orleans; Louisiana Environmental Action Network; Sierra Club; and WMLA.

2. As used in this Settlement Agreement, the phrase “Chef Menteur Landfill” shall refer to that immovable property and only that immovable property specifically described and identified in Exhibit “A” attached hereto.

3. WMLA shall, in the future, never use the Chef Menteur Landfill or any portion thereof for the disposal of solid waste or hazardous waste (as defined by 42 U.S.C. §6903 (5) and (27)), nor shall it permit the disposal of solid waste or hazardous waste at the Chef Menteur Landfill or any portion thereof, while the Chef Menteur Landfill remains under its custody and control, unless compelled to do so by a lawfully issued Court order (in which case WMLA shall notify Plaintiffs of the issuance of said Court order). The Parties hereby acknowledge that this Settlement Agreement shall in no way restrict, impact or affect the right and ability, if any, of WMLA or any future owner or lessee of the Chef Menteur Landfill to use the Chef Menteur Landfill for any other purpose (other than the disposal of solid or hazardous waste).

4. In the event that WMLA shall seek to sell or transfer any interest in and/or to all or any portion of the Chef Menteur Landfill, WMLA shall include in the act of sale or transfer and as a condition of such sale or transfer an obligation and stipulation on the part of the purchaser or transferee that the purchaser or transferee shall not use any portion of the Chef Menteur Landfill for the disposal of solid waste or hazardous waste, nor permit the disposal of solid waste or hazardous waste at the Chef Menteur Landfill or any portion thereof, and further recognizing that the obligation and stipulation is made for the express benefit of Plaintiffs who shall be third party beneficiaries to the aforementioned obligation and stipulation. Plaintiffs agree that, as third party beneficiaries they may enforce the stipulation in their favor against the purchaser or transferee without the assistance or support of WMLA and further agree that Plaintiffs shall not make WMLA a party to any suit Plaintiffs may institute to assert their rights under the said third party stipulation and that WMLA shall not be responsible nor shall Plaintiffs assert any claims whatsoever against WMLA relating to such suit(s) or any costs incurred by Plaintiffs in prosecution of same.

5. The following language or language substantially similar shall satisfy WMLA's obligation under paragraph 4 above when included in the act of sale or transfer:

"Purchaser hereby expressly agrees and acknowledges that as a condition of this Act of Sale, the [Chef Menteur Landfill] property herein purchased shall not be used for the disposal of either solid waste or hazardous waste. This restriction on the use of the property purchased herein shall constitute a stipulation for the benefit of the following third parties (and only these third parties) not parties to this Act of Sale: MQVN Community Development Corporation; Vietnamese American Young Leaders Association of New Orleans; Louisiana Environmental Action Network; and Sierra Club (hereafter collectively referred to as, "Third Party Beneficiaries")."

6. As soon as practicable but in no event later than 30 days after taking ownership of the entirety of the Chef Menteur Landfill, WMLA shall file this Settlement Agreement in the mortgage and conveyance records of Orleans Parish and provide certified copies of that filing to Plaintiffs' undersigned counsel.

7. WMLA shall, within 30 days of the entry of a Judgment of Dismissal dismissing the Citizen Suit with prejudice, pay eight thousand and five hundred dollars (\$8,500) to the Lake Pontchartrain Basin Foundation ("LPBF") or some other non-profit organization (other than Plaintiffs) selected by Plaintiffs MQVN Community Development Corporation, Vietnamese American Young Leaders Association of New Orleans, and Louisiana Environmental Action Network, solely for the purpose of testing and monitoring surface water in the Maxent Canal in the vicinity of the Landfill.

8. It is expressly agreed and understood that the Parties shall not be responsible or legally liable for any acts or omissions of the organization selected for the receipt of the \$8,500 sampling fund.

9. Plaintiffs, each individually, hereby agrees to the dismissal with prejudice of any and all claims asserted by them or on their behalf in the Citizen Suit, and hereby instructs


Plaintiffs' undersigned counsel to file any and all appropriate pleadings necessary to obtain the dismissal with prejudice of the Citizen Suit and all Plaintiffs' claims asserted therein.

Agreed to:

FOR PLAINTIFFS:



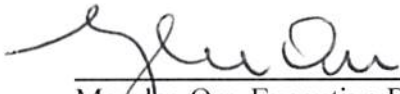
Tuan Nguyen, Executive Director
MQVN Community Development Corporation



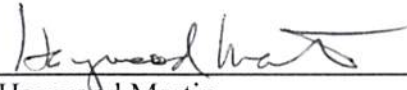
Minh T. Nguyen, Executive Director
VAYLA New Orleans

Date: 5/10/2013

Date: 5/10/2013



Marylee Orr, Executive Director
Louisiana Environmental Action Network



Haywood Martin,
Chapter Chair, Sierra Club


Date: 5/13/13

Date: 5-13-2013

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Date: 5-10-2013

FOR DEFENDANT:

WASTE MANAGEMENT OF LOUISIANA,
L.L.C.

By: 
Director, WMLL

Date: 5-15-13

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*Counsel for Defendant Waste Management of
Louisiana, L.L.C.*

Date: 5/14/13

EXHIBIT "A"

The premises subject to the Settlement Agreement between the parties in the matter entitled, "*MQVN Community Development Corporation, Vietnamese American Young Leaders Association of New Orleans, Louisiana Environmental Action Network, and Sierra Club v. Waste Management of Louisiana, L.L.C.*," Case No.: 2:12-cv-00546-JCZ-ALC, United States District Court for the Eastern District of Louisiana, and to which this Exhibit is attached, are more fully described as follows:

Those CERTAIN LOTS OR PARCELS OF GROUND, situated in the Parish of Orleans, State of Louisiana, consisting of approximately eighty-eight (88) acres, and being designated as:

Parcel 1 – 16.917 Acres, Orleans Parish, LA Lot 1C-4B

A parcel of ground 16.917 acres more or less, in the State of Louisiana, Parish of Orleans, Third District, Area II, New Orleans East Industrial Subdivision and Faubourg DeMontluzin Parcel 5, identified as Lot 1C-4B as per plan of re-subdivision of Lots 1C-2B and 1C-3B as per survey by Gondolfo, Kuhn and Associates, dated October 2, 1991 and more fully described as follows, to-wit:

Commence at the northwest corner of the former Lot 26 being the point of beginning and go in an easterly direction along the right of way of Chef Menteur Highway 100 feet to a point being the northeast corner of former Lot 26; thence go south 36 degrees 10 minutes 36 seconds east 300 feet to a point; thence run along a simple curve to the left having a radius of 5385.15 feet, a distance of 114.64 feet to a point; thence go north 55 degrees 02 minutes 35 seconds east 549.05 feet to a point; thence go south 34 degrees 57 minutes 25 seconds east 1015.57 feet along the western boundary of the Southern National Gas Pipeline servitude to a point; thence go south 67 degrees 14 minutes 53 seconds west 775.89 feet along the northern boundary of the Louisville and Nashville Railroad right of way to a point; thence go north 34 degrees 57 minutes 25 seconds west 847.46 feet to a point which is the southwest corner of former Lot 26; thence go north 37 degrees 11 minutes 04 seconds west 300 feet to a point, being the point of beginning.

Said parcel is comprised of 10 acres formerly designated as Lot 1C-2B. AND 6.917 acres formerly designated as part of Lot 1C-3B.

Parcel 2 – 82 Acres, Orleans Parish, LA, Lot 1C-2A

A certain piece of ground, being 82 and 784/1000 acres in the State of Louisiana, Parish of Orleans, Third District, Area II, New Orleans East Industrial Subdivision and Faubourg DeMontluzin Parcel 5, identified as Lot

1-C-2A on a plan of re-subdivision by Coleman Kuhn, Gandolfo, Kuhn & Associates, dated 4/22/85, more particularly described as follows:

From the northwest corner of Lot 51 and division line with former Lot 50, Section A, parcel 5, go along said lot line south 34 degrees 57 minutes 25 seconds east 300 feet to rear corner of Lot 51, thence north 55 degrees 02 minutes 35 seconds east 1132.00 feet along the division line with Parcel 5 to a S&WB ROW (Marseille Lagoon), thence southerly 705.23 feet along a curve with a radius of 3694.72 feet to a point, thence south 24 degrees 01 minutes 14 seconds 898.58 feet to a corner common to the S&WB ROW and the L&N Railroad, thence south 67 degrees 14 minutes 53 seconds west 2685.07 feet to a corner common to the L&N Railroad and Parcel 1C-4B, thence north 34 degrees 57 minutes 25 seconds east 1015.57 feet to a corner common to Parcels 5 and 1C-4B, thence north 55 degrees 2 minutes 35 seconds east 125 feet to a corner common to Parcel 1C-3A and Parcel 5, thence south 34 degrees 57 minutes 25 seconds east 196.76 feet, thence north 55 degrees 2 minutes 35 seconds east 304.95 feet, thence north 34 degrees 57 minutes 25 seconds west 196.76 feet, thence north 55 degrees 02 minutes 35 seconds east 1200 feet to the southeast corner of Lot 49 of parcel 5, thence north 34 degrees 57 minutes 25 seconds west 300 feet, thence north 55 degrees 02 minutes 35 seconds east 100 feet along the Chef Menteur Highway to the point of beginning, containing 82.784 acres.