



STATE OF MISSISSIPPI
HALEY BARBOUR
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

February 17, 2011

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. William "Bill" Schoening
Total Environmental Solutions Inc, Oak Park Subdivision
PO Box 14056
Baton Rouge, LA 708984056

**Re: Total Environmental Solutions Inc, Oak Park Subdivision
Agreed Order No. 5908 11**

Dear Mr. Schoening:

Enclosed you will find a copy of Agreed Order No. 5908 11, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Chris Wells at (601) 961- 5545.

Sincerely,

A handwritten signature in blue ink that reads "Jerry W. Cain" with a date "1/8" written below it.

Jerry W. Cain, P.E., DEE
Director, Office of Pollution Control

Enclosure
cc: Chris Wells

Agency Interest No. 13794
ENF20090002

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 5908 11

TOTAL ENVIRONMENTAL SOLUTIONS INC.
1824 RYDER DRIVE
BATON ROUGE, LOUISIANA 70808

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and Total Environmental Solutions Inc., Respondent, in the above captioned cause and agree as follows:

1.

Respondent owns and operates a wastewater collection and treatment system in Oak Park Subdivision located in Warren County, NPDES Permit No. MS0032972. Complainant reviewed the discharge monitoring reports for 2008, 2009, and 2010. By letters dated June 8, 2009, March 26, 2010, August 23, 2010, and November 23, 2010, Respondent was contacted by Complainant and notified of the following violations:

- A. The effluent BOD, 5-day limitation was exceeded during the months of April – December 2008, January – March and October – December 2009, and January – March and July – September 2010.
- B. The effluent Total Residual Chlorine limitation was not met during the months of

- April – December 2008, January – March 2009, and January – September 2010.
- C. The effluent Fecal Coliform limitation was exceeded during the months of April – December 2008 and January – March 2010.
 - D. The effluent Total Suspended Solids limitation was exceeded during the months of July – September 2008.
 - E. The effluent Ammonia Nitrogen limitation was exceeded during the months of January – March 2009 and January – September 2010.
 - F. The effluent Dissolved Oxygen parameter was exceeded during the months of October – December 2009 and April – September 2010.
 - G. The effluent Dissolved Oxygen parameter was not tested during the months of January – December 2008.

On December 15, 2009, and February 24, 2010, Respondent submitted engineering studies, completed by a Mississippi-registered Professional Engineer, identifying deficiencies within the wastewater treatment system. This study included alternatives to correct the noted deficiencies and a time schedule for the completion of the recommended upgrades.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$30,000.00. Respondent shall pay this penalty to MDEQ within thirty (30) days after this Agreed Order has been executed by the MDEQ Executive Director, or her designee. The settlement payment shall be submitted to the following address:

Mississippi Department of Environmental Quality
Attn: Mona Varner
P.O. Box 2339
Jackson, MS 39225

- B. On or before March 31, 2011, Respondent shall obtain the services of a Mississippi Wastewater Certified Operator with at least a Class II certification. Respondent shall submit the name and certification number of the certified operator by March 31, 2011.
- C. On or before March 31, 2011, Respondent shall submit written Standard Operating Procedures for properly operating and maintaining the Oak Park treatment facility. The procedures shall include operator checklists and a preventative maintenance plan.
- D. On or before March 31, 2011, Respondent shall complete necessary security measures to minimize the potential for vandalism.
- E. If Respondent fails to comply with any one or more of the requirements set forth in Subparagraphs 2.B.- 2.D. above, then the Respondent shall pay a stipulated penalty of \$100 per day for each such violation until such time as Respondent complies with the requirement violated. Should Respondent fail to comply with more than one of the requirements of Subparagraphs 2.B. – 2.D., Respondent’s subsequent compliance with one of the violated requirements shall not eliminate Respondent’s obligation to pay the stipulated penalties associated with other violations.

3.

Notwithstanding the provision by this Agreed Order for stipulated penalties to accrue in certain circumstances, the Commission reserves the right to conduct a separate enforcement action concerning any violation by Respondent of this Agreed Order or of the laws or regulations within the jurisdiction of the Commission. If the Commission conducts a separate enforcement action concerning a violation for which stipulated penalties are provided in this Agreed Order, the Commission will be deemed to have waived the right to collect stipulated penalties in lieu of the right to conduct the separate enforcement action. In that separate enforcement action, the Commission may seek penalties, injunctive relief, or other appropriate relief different from or in the excess of the amount of stipulated penalties included in this Agreed Order, up to and including the statutory maximum penalty.

4.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

5.


Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

6.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

ORDERED, this the 17 day of February, 2010.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 8th day of February, 2010.

TOTAL ENVIRONMENTAL SOLUTIONS INC.

BY: [Signature]

TITLE: CEO

STATE OF Louisiana
COUNTY OF East Baton Rouge
Parish

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named William Schoening who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the CEO of Total Environmental Solutions, Inc. and is authorized to sign this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 8th day of February, 2010.

[Signature]
NOTARY PUBLIC

My Commission expires: in for life

Jaclyn Christine [Signature]
Notary Public No. 76686
State of Louisiana



Total Environmental Solutions, Inc.

P. O. BOX 14056
BATON ROUGE, LOUISIANA 70898 - 4056
1824 RYDER DRIVE 70808
TELEPHONE 800-372-9712 / 225-766-4477 FAX 225-766-4470
www.totalenvironmentalsolutions.com

February 8, 2011

Mississippi Department of Environmental Quality

ATT: Kim Smith

P. O. Box 2261

Jackson, MS 39225

**Re: Oak Park Subdivision-Vicksburg, Warren County
Water-NPDES Permit No. MS0032972**

Dear Ms. Smith:

Enclosed please find the original MDEQ Agreed Order for the above referenced matter, signed and notarized.

Please do not hesitate to contact me or any Total Environmental Solutions, Inc. (TESI) representative, if there is anything needed in this regard.

Sincerely,

Melanie C. Netterville
Manager of Customer Relations

Enclosure

cc: Teri Wyly, Balch & Bingham, LLP



BALCH & BINGHAM LLP

Alabama • Georgia • Mississippi • Washington, DC

Teri T. Wyly
(228) 214-0413

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twyly@balch.com

January 24, 2011

VIA FEDEX

COPY

Mr. Bill Schoening
Total Environmental Solutions, Inc.
1824 Ryder Drive
Baton Rouge, Louisiana 70808

Re: Oak Park Subdivision
Vicksburg, Warren County
Water – NPDES Permit No. MS0032972

Dear Bill:

Enclosed for your notarized signature is the original MDEQ Agreed Order for the referenced matter. Please execute said document and return same to MDEQ in the enclosed envelope as soon as possible. Funds should be sent to MDEQ as per the instructions in Section 2.A. of said Order.

If you have any questions, please do not hesitate to contact me.

Sincerely,

BALCH & BINGHAM LLP

Teri T. Wyly / kws
Teri T. Wyly

TTW:kws
Enclosures

cc: Mr. Steve Jones (via e-mail, w/enc.)