

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

A & B INDUSTRIES OF
MORGAN CITY, INC.

AI # 29957

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

* Settlement Tracking No.
* SA-MME-10-0053
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* Enforcement Tracking No.
* MM-CN-09-0073
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SETTLEMENT

The following Settlement is hereby agreed to between A & B Industries of Morgan City, 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 an existing boat construction and repair facility located in Amelia, Saint Mary Parish, Louisiana (“the Facility”).

II

On October 9, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-09-0073, which was based upon the following findings of fact:

The Respondent owns and/or operates the A & B Industries of Morgan City Dry Dock Yard, an existing boat construction and repair facility, located at or near 2916 Lake Palourde Road in Amelia, Saint Mary Parish, Louisiana. This facility currently operates under an Administrative Amendment to Air Permit No. 2660-00197-01, issued on February 25, 2008.

On or about March 24, 2009, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act, the Air Quality Regulations, and the Water Quality Regulations.

The following violations were noted during the course of the inspection:

- A. The inspector noted that the tarps at the facility did not have overlapping seams. This is a violation of LAC 33:III.1329.C.1 and La. R.S. 30:2057(A)(2).
- B. The inspector noted that the facility's tarps had unrepaired tears greater than one (1) foot in length. This is a violation of LAC 33:III.1329.C.3, LAC 33:III.1329.H, LAC 33:III.905, and La. R.S. 30:2057(A)(2).
- C. The inspector noted the screens around the dry dock, which is located over water, were not secured to prevent particulate matter from reaching the waters of the state. There was particulate matter floating on the water surrounding the dry dock. This is a violation of LAC 33:III.1329.E, LAC 33:III.1305.A, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. The inspector noted that the facility failed to include recordkeeping entries for abrasive blasting operations conducted on March 23 and 24, 2009, and record observed wind direction and particulate matter emissions during blasting operations. Each failure to maintain records is a violation of LAC 33:III.1333 and La. R.S. 30:2057(A)(2).
- E. The inspector noted that the Respondent did cause or allow an unauthorized discharge of sandblasting residue into waters of the state. Specifically, spent blasting sand was floating in the water surrounding the dry dock blasting area. The unauthorized discharge of sandblasting residue into waters of the state is a violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, and LAC 33:IX.2311.A.1.

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 THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00), of which Two Hundred Fifty-Six and 36/100 Dollars (\$256.36) represents the Department's enforcement costs, in settlement of the claims set forth in this 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 and this Settlement 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 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 agreement in any action by the Department to enforce this agreement.

VII

This settlement 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, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Saint Mary Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement 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 is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this 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 (Exhibit A).

X

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

XI

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.

**A & B INDUSTRIES OF
MORGAN CITY, INC.**

BY: Reynold Barousse
(Signature)

Reynold Barousse
(Print)

TITLE: Manager

THUS DONE AND SIGNED in duplicate original before me this 13th day of
September, 20 10, at Morgan City, LA.

Andrew Reed
NOTARY PUBLIC (ID # 11121)
State of Louisiana
My Commission Is For Life
(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Peggy M. Hatch, Secretary

BY: Beau James Brock
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 19th day of
January, 20 11, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10143)
CHRISTOPHER A. RATCLIFF
Notary Public
State of Louisiana
Notary ID # 10143
Commission is for Life
(Print)

Preliminary Approval: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary